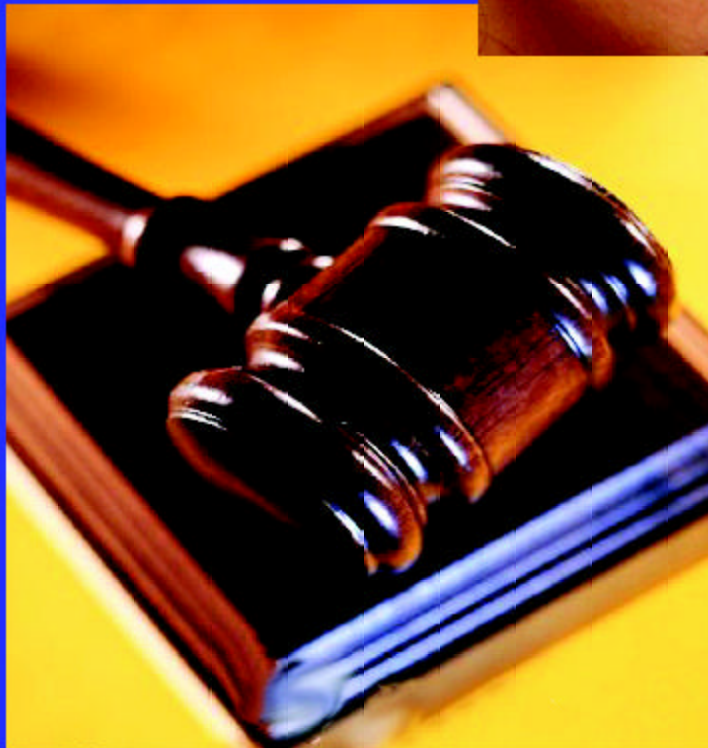


# Kentucky

*Office of  
Workers' Claims*



*Annual Report  
Fiscal Year  
2003-2004*



Office of Workers' Claims



## **Office of Workers Claims Mission Statement**

Resourceful administration of Kentucky's Workers' Compensation program and equitable and expedient processing of claims.

## **PERFORMANCE OBJECTIVES**

- “ To assure prompt delivery of statutory benefits, including medical services and indemnity payments
- “ To provide timely and competent services to stakeholders
- “ To foster stakeholder knowledge of rights and responsibilities under the Workers' Compensation Act
- “ To encourage stakeholder involvement in the development of policy and delivery mechanisms
- “ To provide the public and policy makers with accurate and current indicators of program performance
- “ To anticipate changes in the program environment and respond appropriately



**DEPARTMENT OF LABOR**  
**OFFICE OF WORKERS' CLAIMS**

**Prevention Park**  
**657 Chamberlin Avenue**  
**Frankfort, Kentucky 40601**  
**Telephone (502) 564-5550**  
**Web Site: [labor.ky.gov/dwc](http://labor.ky.gov/dwc)**

**November 17, 2004**

Honorable Ernie Fletcher  
Governor  
Capitol Building  
700 Capitol Avenue, Suite 100  
Frankfort, KY 40601

Dear Governor Fletcher:

The Office of Workers' Claims is charged with the mission of "resourceful administration of Kentucky's workers' compensation program and equitable and expedient processing of claims."

As the newly appointed Executive Director of the Office of Workers' Claims it is my goal to diligently execute the duties associated with the position. Therefore, pursuant to KRS 342.230, I submit the Annual Report of the Office of Workers' Claims for Fiscal Year 2003-04.

I welcome your suggestions for continuous improvement as we move into a new era and strive to meet the goals of this administration.

Sincerely,

William P. Emrick  
Executive Director  
Office of Workers' Claims

**Commonwealth of Kentucky  
Office of Workers' Claims**

Prevention Park  
657 Chamberlin Avenue  
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Executive Director  
William P. Emrick

**WORKERS' COMPENSATION BOARD**  
(859) 246-2773

**ADMINISTRATIVE LAW JUDGES**  
Sheila C. Lowther  
Chief Administrative Law Judge  
(502) 564-5550

In addition to the Frankfort office, OWC specialists and ombudsmen may be contacted at the following offices for information and assistance regarding workers' compensation issues:

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**Louisville, KY 40202**  
Telephone 502-595-4146  
Fax 502-595-4146  
**Toll free 866-874-0006**

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**Paducah, KY 42001**  
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**Pikeville, KY 41501**  
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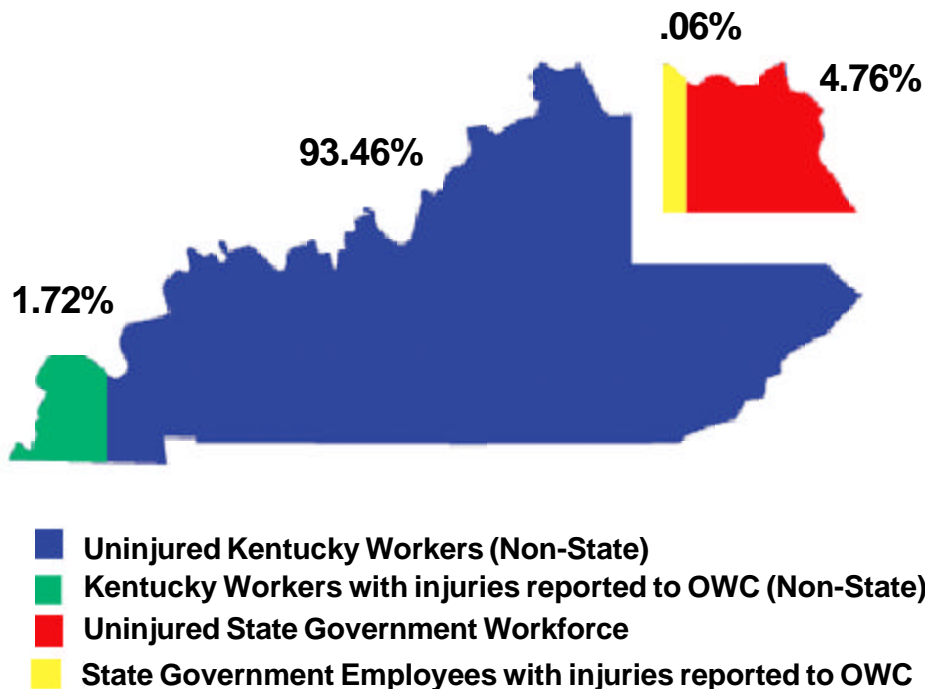
## ***A Closer Look at Injuries and Claims in State Government***

In response to Governor Fletcher's announcement to institute workplace safety procedures to reduce injuries, and the resulting excessive workers' compensation claims in all Cabinets of state government, research staff within the Office of Workers' Claims set about the task of analyzing and comparing lost time injury and claims data for state government employees with Kentucky's entire workforce of 1,973,229 people.

During fiscal year ending June 30, 2003 the Office of Workers' Claims received 35,016 lost time first reports of injury which indicates that approximately 1.8% of Kentucky's entire workforce (excluding agriculture) incurred work related injuries. Of these, state government comprised 3% or 1,087 incidents. In order to glean meaningful data on which safety programs and prevention initiatives could be developed, the OWC limited its initial

research to the same group of state workers upon which previously published articles based their findings. To understand why this is significant, it is first important to acknowledge that not all state agencies are covered under one Kentucky State Government umbrella. In fact, for workers' compensation insurance purposes, Kentucky State Government employees are covered through two self-insured groups, the Transportation Cabinet and the Commonwealth of Kentucky. The latter is administered through the Department of Personnel. Thus, for the purpose of this research effort OWC has relied on the Department of Personnel's Loss Report for establishing state government workforce numbers and work related injuries.

**Distribution of Injuries Reported to the Office of Workers' Claims  
Fiscal Year 2002-03**





## KRS 342.640(3)

***Every person in the service of the state or any of its political subdivisions or agencies, or of any county, city of any class, school district, drainage district, tax district, public or quasipublic corporation, or other political entity, under any contract of hire, express or implied, and every official or officer of those entities, whether elected or appointed, while performing his official duties shall be considered an employee of the state. Every person who is a member of a volunteer ambulance service, fire, or police department shall be deemed, for the purposes of this chapter, to be in the employment of the political subdivision of the state where the department is organized. Every person who is a regularly-enrolled volunteer member or trainee of an emergency management agency, as established under KRS Chapters 39A to 39E, shall be deemed, for the purposes of this chapter, to be in the employment of this state. Every person who is a member of the Kentucky National Guard, while the person is on state active duty as defined in KRS 38.010 (4), shall be deemed, for the purposes of this chapter, to be in the employment of this state.***

On July 11, 2003 the Office of Workers' Claims received the Department of Personnel's Loss Report which indicated they covered 95,000 employees (4.8% of Kentucky's workforce) and recorded 3,560 injuries for fiscal year ending June 30, 2003. In reviewing the employers which comprise the Commonwealth's workforce, numerous entities listed under the state's program are not typically thought of as state administered but are more often considered under local or community control such as volunteer fire departments, volunteer ambulance services, community and technical colleges, state universities (excluding UK and U of L), hospitals, and county sheriff's offices. It may be difficult to make safety recommendations and deploy accident prevention programs within this expanded group of state employers who may perceive their only affiliation with state government as a marriage of convenience in order to secure affordable workers' compensation coverage.

The Department of Personnel's Loss Report indicated that 411 injuries resulted in no benefit payments; 29 injuries received payments ranging from one (\$1) to five (\$5) dollars. The remaining 3,120 accidents received compensation in varying amounts. For the 95,000 lives covered, \$1,861,095 in indemnity benefits was paid during FYE

2003, an average payment of \$19.60 per covered life or \$591 per worker, if only those injuries listed as having received compensation are considered.

Depending on the reporting agency, "claims" may or may not result in payment of benefits. Accident reporting requirements as well as the definition of a "claim" often differs between state and federal agencies, and workers' compensation insurance administrators. For example, an employer's first report of injury must be filed with the Office of Workers' Claims only if an employee misses more than one day of work as a result of his/her injury. This constitutes a "first report", however; in the insurance/self-insured community this would be considered a "claim". At the Office of Workers' Claims, not every injury results in compensation or a claim being filed. Claims result only in cases where there are disagreements that cannot be resolved (i.e. contesting payment of benefits, a question of extent of disability).

During fiscal year 2003, the Office of Workers' Claims received electronically 1,087 lost time first reports of injury for employees of the Commonwealth. Sixty-seven (67) resulted in agreements, one (1) received an award, two (2)

were dismissed, 23 are currently pending, and 994 remain accident reports only. State hospitals (227), State universities (122), Department of Corrections (86), State Parks (73), Veteran Centers (61), Department of Juvenile Justice (36) & State Police (36), State Fair Board (24), Administrative Offices of the Courts (23), Community Colleges (22), and Military Affairs (20) comprise the top ten state government employers with the greatest number of lost time injuries.

From first reports submitted by the Commonwealth, nature of injury and occupation data was compiled for the past four fiscal years. Nature of injury trends mirror those reported by private sector employers, which identify strains, sprains, and contusions among the top five accident types. Occupationally speaking, Nursing Aides, Orderlies and Attendants, Administrative Support Occupations, Correctional Institution Officers, Firefighters, Health Aides, Social Workers, Janitors and Cleaning Staff, Laborers (except construction), Police and Detectives, and Management related occupations comprised the top ten list of occupations reporting lost time injuries.

Heightened awareness is the first step towards workers' safety and injury prevention not only for those employed by the Commonwealth but for all of Kentucky's workers.

## ***Spotlight on State Parks***

During the fiscal year ending June 30, 2003, there were 73 lost time injuries reported to the Office of Workers' Claims (OWC) on behalf of Kentucky's State Park workers. Strains, sprains, lacerations, and burns were among the leading accident types. Only six park employees have filed formal applications or agreements associated with their FYE 03 injuries. Of those, two (2) cases have been assigned to ALJs within the Office of Workers' Claims, one (1) award has been rendered, and three (3) agreements for compensation have been approved. Provided below is a chart, which depicts the number of injuries/claims, filed at each state resort. Those Kentucky Parks not listed did not file any lost time injuries during FYE 03.

Barren River Lake	1
Buckhorn	1
Carter Cave	3
Cumberland Falls \$	6
Department of Parks*	17
General Butler	5
Jenny Wiley	3
Kenlake	4
Kentucky Dam Village*#	8
Kincaid Lake	1
Kentucky Horse Park*	6
Lake Barkley	5
Lake Cumberland #	3
Natural Bridge	3
Pennyrile Forest	3
Pine Mountain	1
Rough River Lake	3

\$-Award Rendered, \*- One Agreement Approved, #-Claim Assigned





# Kentucky Workers' Compensation Program Overview

The Office of Workers' Claims (OWC ) has the overall authority and oversight responsibility for operation of Kentucky's Workers' Compensation Program under Chapter 342 of the Kentucky Revised Statutes. The OWC is administratively attached to the Kentucky Department of Labor. The primary purpose of Kentucky's Workers' Compensation Act is to restore an income stream to an injured worker to the extent it has been severed by an industrial injury or occupational disease; to provide timely medical services for the cure or relief of the injury; and, to provide rehabilitation and retraining services to injured workers unable to return to their former jobs. The primary goal of the OWC is to assure prompt delivery of statutorily enacted

benefits, by providing an expedient processing of injury and occupational disease claims through a non-adversarial process, including mediation, and resolution of disputes through prompt adjudication by administrative law judges (ALJs).

The General Assembly enacted sweeping reforms to the program in December of 1996 upon call of a special session by the Governor (House Bill 1). Total cost in premium dollars of the Kentucky systems in 1996 was equivalent to four (4) times the businesses' state corporate income tax liability. The Kentucky Coal industry was in crisis. Premiums in the coal industry had risen 89% in the preceding two years. The number of workers receiving awards in the previous seven (7) years had more than doubled, despite no evidence of increase in on-the-job injuries.

Legislation in the Workers' Compensation Reform of 1996 was enacted which focused on critical objectives of fairness to injured workers and affordability for employers who pay for the system. Benefits levels were based on objective impairment ratings under the American Medical Association (AMA) Guides to Functional Impairment; benefit liability was terminated when an injured employee reached 65 years of age; "Injury" was redefined to end subjective decision-making by ALJs. Guaranty Funds were created for all self-insured employers to off-set termination of benefits if employers became insolvent or bankrupt.

The General Assembly in 2000 (House Bill 992) increased benefit levels for traumatic injury by taking a worker's



age and educational level into account. HB 992 also increased death benefits; enhanced penalties against employers for safety violations which result in work injury; reduced the level of adjudication by eliminating arbitrators; and, reinstated the Workers'



Compensation Board for administrative appeal from ALJs before appeal to the appellate courts are authorized. Additional refinement to the law was made during the 2002 General Assembly (House Bill 348) providing that coal miners who leave the coal mining industry and are determined to suffer from the occupational disease of coal worker's pneumoconiosis (black lung) should have opportunity to make transition to other employment by education and retraining programs. Miners who are 57 years of age at the time of their last exposure to coal dust could be entitled to monetary indemnity payments.

The OWC is organized administratively into the Office of the Executive Director, four (4) divisions, Administrative Law Judges (ALJs), and Workers' Compensation Board (WCB). The Executive Director is appointed by the Governor from a list of three (3) candidates nominated by the Workers' Compensation Nominating Commission. The Executive Director must receive confirmation from the Kentucky State Senate in accord with procedures

established in KRS 342.213, KRS 342.228 and KRS 11.160. There are four (4) major administrative divisions within the OWC under the immediate supervision of the Executive Director. These include: Division of Claims Processing; Division of Security and Compliance; Division of Information and Research, and Division of Ombudsmen and Workers' Compensation Specialists. Each division is headed by a division director.

The OWC also includes an adjudicative function. Statutory enactment authorizes nineteen (19) ALJs. There are currently (16) ALJs employed who make decisions in all claims filed before the Office. Each ALJ is appointed by the Governor for a term of four (4) years from a list of three (3) names submitted by the Workers' Compensation Nominating Commission. Each ALJ must be confirmed by the Kentucky State Senate. KRS 342.230, KRS 11.160. One ALJ is appointed Chief ALJ by the Governor

who assists the Executive Director by scheduling hearing dockets; providing supervision of ALJs; handling emergency dockets; and, assisting the Executive Director in providing educational training of ALJs. Claims are heard in twelve (12) hearing sites located geographically throughout the state for convenience of employees and employers.

The WCB consists of three (3) members appointed by the Governor for staggered terms of four (4) years, from a list of three (3) candidates submitted to the Governor by the Kentucky Workers' Compensation Nominating Commission. Confirmation by the Kentucky State Senate is required. KRS 342.215, KRS 11.160. Members of the WCB must possess the same qualifications as judges of the Court of Appeals. One member is appointed by the Governor as Chair of the Board. The WCB renders opinions in appeals taken from decisions by ALJs. Any further appeal is taken by direct appeal to the Kentucky Court of Appeals and thereafter to the Kentucky Supreme Court. Rules adopted by the Supreme Court authorize such appeals from the WCB to the judiciary.

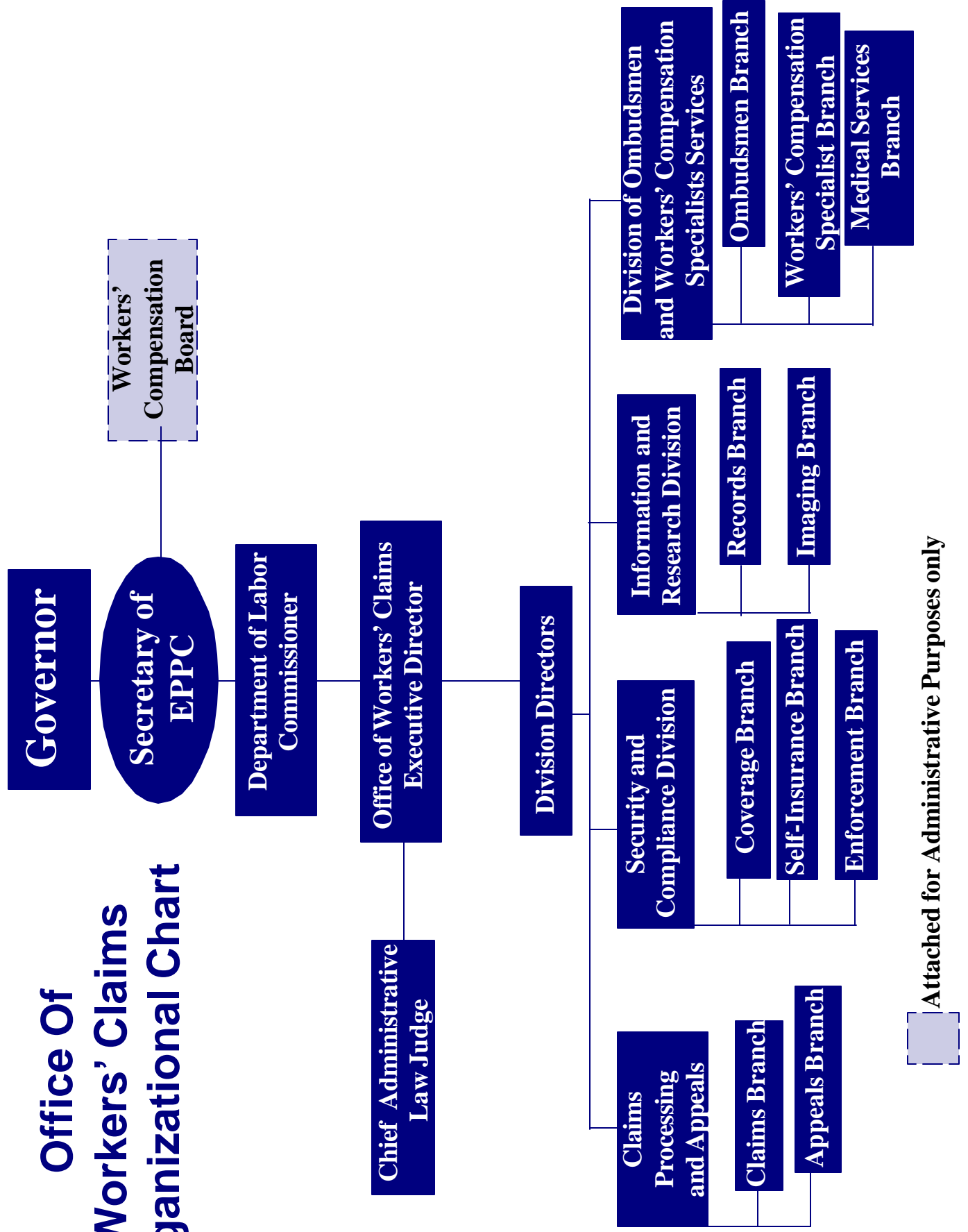
Because of the impact of medical cost in claims, the General Assembly requires the Executive Director to promulgate regulations and implement fee schedules to contain cost of medical services provided to injured workers. The schedule of fees must be fair, current and reasonable. Currently, fees paid for medical services are regulated by three (3) specific regulations: (1) Workers' Compensation Medical Fee Schedule for Physicians; (2) Workers' Compensation Hospital Fee Schedule; and, (3) Workers' Compensation Pharmacy Fee Schedule. The organization of the OWC undertakes other cost containment measures by statutory directives: Managed Health Care Programs, Utilization Review Programs and

Medical Bill Audit Programs must be certified by the Executive Director. These are implemented in an effort to contain health care costs while striking the balance required by statute of providing quality medical care to injured workers at a price employers can afford.

The OWC , moreover, enforces the mandatory workers' compensation coverage statutes with citations and fines against employers who fail or refuse to cover their workers' compensation liability with insurance; and, assess fines against insurance carriers who violate the unfair claims settlement practice statutory provisions of the Act, and regulations promulgated by the Executive Director.

The funding source for 100% of the Workers' Claims' budget is provided by the Workers' Compensation Funding Commission whose purpose is to collect assessments levied upon workers' compensation insurance premiums paid by employers and a simulated premium for self-insured employers. The Funding Commission invests and manages such assessed funds pursuant to KRS 342.122. These assessments are restricted trust and agency funds segregated from other public and state monies.

# Office Of Workers' Claims Organizational Chart



Attached for Administrative Purposes only



# PROGRAM STATISTICS



## First Reports Of Injury

Kentucky Revised Statute 342.038 mandates that employers keep a record of all workplace injuries received by employees. Employers must file a First Report of Injury with the Office of Workers' Claims when more than one day of lost work occurs. This report must be filed within one week after learning of the injury. Kentucky employers who fail to comply with this requirement are subject to the penalty provisions of KRS 342.990.

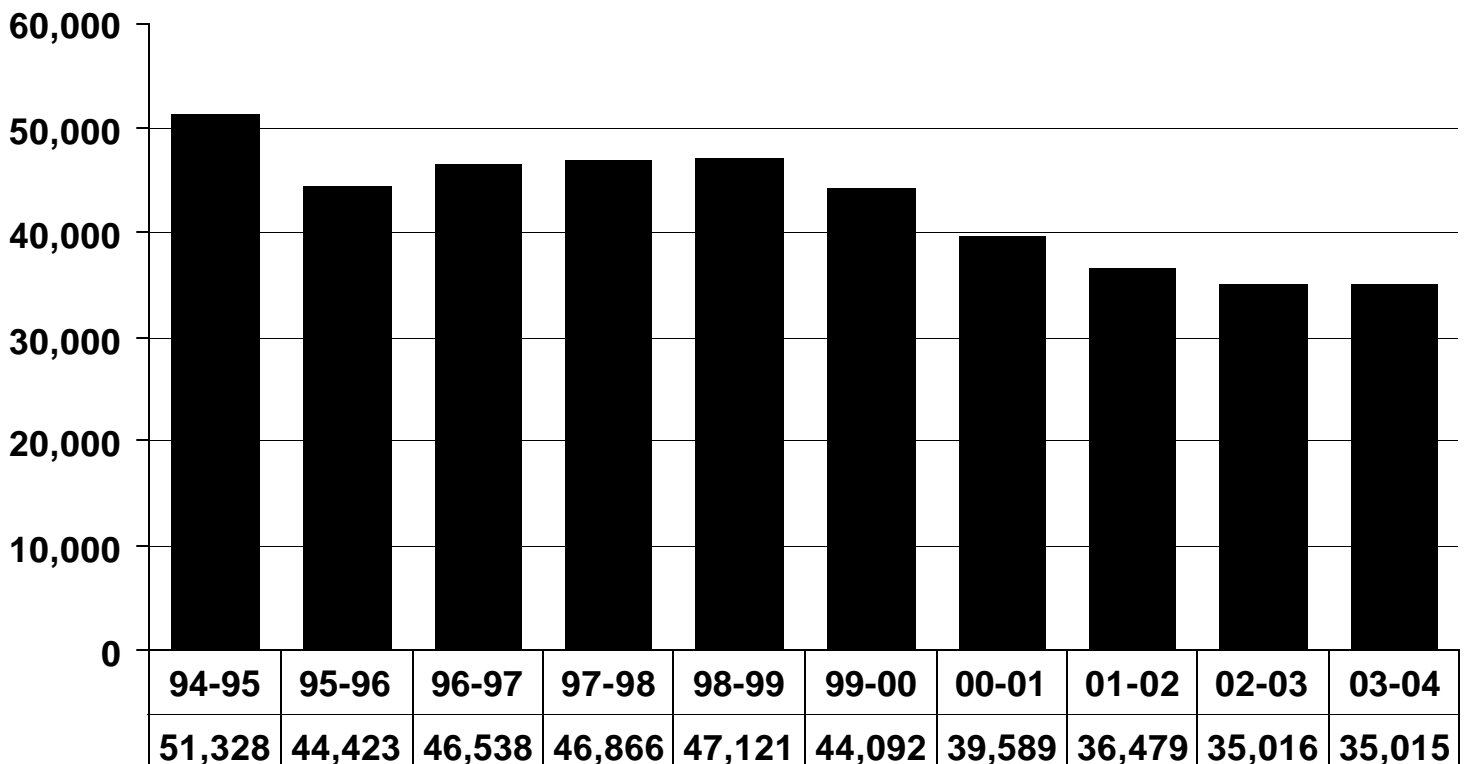
In fiscal year 2003-2004, there were 35,015 lost time First Reports of Injury filed with the Office of Workers' Claims (meaning that these injured workers missed more than one day of

work). While the number of lost time injuries has declined in recent years, this is the lowest number of injuries reported to OWC in the past decade.

The 3 most common types of work-related injuries reported in FY 2003-04 were caused by falls (6,099), lifting (5,619 and strains (3,311).

Review of the nature of injuries revealed that strains (13,831) and sprains (2,323) accounted for nearly half of all reported injuries. Contusions/bruises were reported in 3,608

## First Reports of Injury by Fiscal Year





## Distribution Of Lost Time Injuries By Type

Hearing Loss	261
Coal Workers' Pneumoconiosis	331
Occupational Disease	1,263
Injury	33,160

injuries; there were 2,599 fractures and 2,192 lacerations reported.

The lower back was the most common body part injured (6,659), followed by multiple body parts including systems (4,271) and injuries to the knee (2,839).

During this fiscal year, the services industry reported the most injuries (8,686); followed closely by manufacturing (8,279) injuries. The remainder of the classifications reported as follows: retail trade (5,255), construction (3,473), transportation/communication/public utilities (3,309), mining (1,861), public

administration (1,442), wholesale trade (1,268), agriculture/forestry/fishing (529), finance/insurance/real estate (486) and unclassified (427).

The average age of injured employees was 38. The average age of males was 37, average age for women was 39.



## Workers' Compensation Claims

A workers' compensation claim in Kentucky originates when: 1) A settlement document is filed to voluntarily resolve workers' compensation issues between parties; or 2) a claim application is filed because the parties are not in agreement and the matter must be resolved by an Administrative Law Judge.

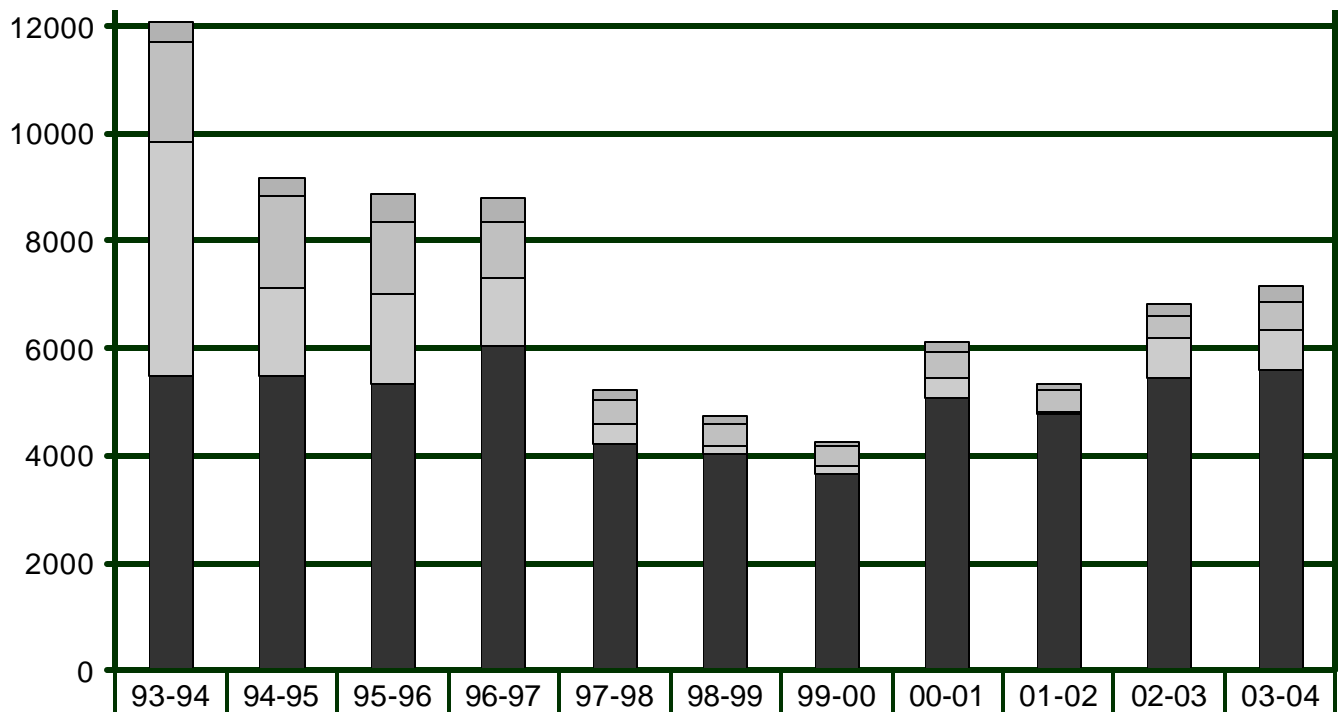
Workers' compensation claims are typically divided into two types, *indemnity* and *medical-only*, a distinction that is used in this report. Indemnity claims are those for which income benefits are paid to compensate for lost wages, functional impairment or death. Medical service costs are paid in addition to income payments.

Most of the data in this report pertains to indemnity claims. Presently, there is no statutory requirement that employers or their insurance carriers report medical-only injuries to OWC.

For an injury to be compensable, it must be caused by the employee's work. To be considered for temporary total income benefits, an injured worker must miss more than seven days of work. Medical-only claims are those where medical services are delivered but the employee does not qualify for income payments.

In FY 2004 there were 7,174 requests for resolution of claims filed with the Office of Workers' Claims. This represents only a slight increase from FY 2003.

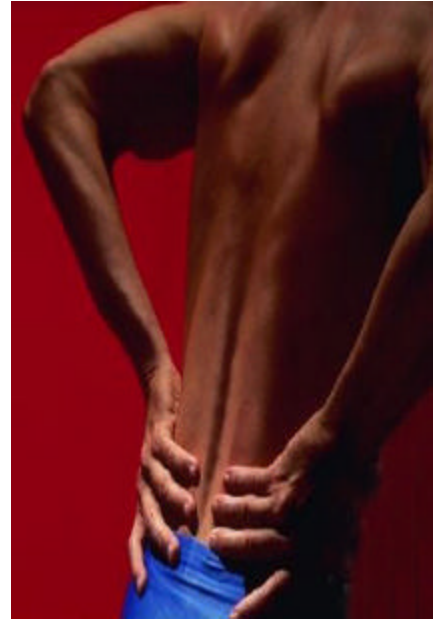
## Claims Filed by Fiscal Year



■ Hearing Loss	351	332	530	439	163	119	99	179	110	200	297
■ OD	1871	1711	1343	1040	453	404	364	496	393	417	524
■ CWP	4359	1655	1662	1265	363	162	122	363	50	761	755
■ Injury	5485	5486	5347	6058	4236	4034	3675	5081	4764	5442	5598

## Distribution of Claims by Body Part Top Ten

<b>Lower Back</b>	<b>1,531</b>
<b>Multiple Body Parts Including Systems</b>	<b>1,255</b>
<b>Lungs</b>	<b>803</b>
<b>Knee</b>	<b>440</b>
<b>Shoulder</b>	<b>412</b>
<b>Wrist</b>	<b>301</b>
<b>Ears</b>	<b>301</b>
<b>Disc</b>	<b>284</b>
<b>Multiple Upper Extremities</b>	<b>166</b>
<b>Soft Tissue</b>	<b>134</b>



In reviewing litigated injury claims, 1,100 falls were reported making this the most common cause of injury followed closely by lifting injuries which totaled 1,032 during the same period. Injuries caused by absorption, ingestion or inhalation totaled 824 and 616 claims involved strains.

Of the 7,174 claims filed during fiscal year 2003-2004, 71% (5,066) were filed by men and 29% (2,108) were filed by women. The average age of individuals that filed claims was 42.

Men filed the majority of claims in all standard industrial classification categories except retail trade, finance/insurance/real estate and services.

Workers employed in the mining industry filed the greatest number of claims (1,764), followed by manufacturing (1,421) and services (1,267).



## A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County Name	Labor Force	FROIS	% of FROIS to Labor Force	Claims	% of Claims to FROIS
Adair County, KY	7,745	62	0.80%	11	17.74%
Allen County, KY	8,196	46	0.56%	8	17.39%
Anderson County, KY	9,992	38	0.38%	10	26.32%
Ballard County, KY	3,967	26	0.66%	5	19.23%
Barren County, KY	17,641	380	2.15%	32	8.42%
Bath County, KY	6,025	40	0.66%	5	12.50%
Bell County, KY	9,686	231	2.38%	109	47.19%
Boone County, KY	50,539	831	1.64%	114	13.72%
Bourbon County, KY	9,321	158	1.70%	16	10.13%
Boyd County, KY	22,403	712	3.18%	245	34.41%
Boyle County, KY	14,603	273	1.87%	35	12.82%
Bracken County, KY	3,770	10	0.27%	4	40.00%
Breathitt County, KY	4,251	78	1.83%	14	17.95%
Breckinridge County, KY	8,074	35	0.43%	4	11.43%
Bullitt County, KY	34,098	228	0.67%	20	8.77%
Butler County, KY	6,322	68	1.08%	10	14.71%
Caldwell County, KY	6,523	84	1.29%	13	15.48%
Calloway County, KY	17,749	256	1.44%	36	14.06%
Campbell County, KY	45,098	319	0.71%	50	15.67%
Carlisle County, KY	2,674	10	0.37%	4	40.00%
Carroll County, KY	5,626	117	2.08%	18	15.38%
Carter County, KY	11,609	226	1.95%	24	10.62%
Casey County, KY	6,891	84	1.22%	7	8.33%
Christian County, KY	28,250	446	1.58%	55	12.33%
Clark County, KY	15,736	306	1.94%	48	15.69%
Clay County, KY	7,811	78	1.00%	15	19.23%
Clinton County, KY	6,397	25	0.39%	6	24.00%
Crittenden County, KY	3,844	46	1.20%	7	15.22%
Cumberland County, KY	2,892	28	0.97%	1	3.57%
Daviess County, KY	48,349	760	1.57%	88	11.58%
Edmonson County, KY	4,965	13	0.26%	2	15.38%
Elliott County, KY	2,758	9	0.33%	3	33.33%
Estill County, KY	5,576	26	0.47%	9	34.62%
Fayette County, KY	141,070	2684	1.90%	436	16.24%
Fleming County, KY	6,311	73	1.16%	15	20.55%
Floyd County, KY	14,020	353	2.52%	237	67.14%
Franklin County, KY	24,709	792	3.21%	116	14.65%
Fulton County, KY	3,505	55	1.57%	15	27.27%
Gallatin County, KY	3,845	30	0.78%	6	20.00%
Garrard County, KY	7,865	49	0.62%	7	14.29%
Grant County, KY	11,392	91	0.80%	12	13.19%

## A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County Name	Labor Force	FROIS	% of FROIS to Labor Force	Claims	% of Claims to FROIS
Graves County, KY	17,332	152	0.88%	37	24.34%
Grayson County, KY	12,951	184	1.42%	17	9.24%
Green County, KY	4,656	29	0.62%	3	10.34%
Greenup County, KY	16,333	161	0.99%	29	18.01%
Hancock County, KY	3,840	73	1.90%	11	15.07%
Hardin County, KY	40,923	565	1.38%	82	14.51%
Harlan County, KY	9,444	257	2.72%	224	87.16%
Harrison County, KY	7,262	66	0.91%	11	16.67%
Hart County, KY	7,635	65	0.85%	4	6.15%
Henderson County, KY	24,221	430	1.78%	121	28.14%
Henry County, KY	7,559	60	0.79%	7	11.67%
Hickman County, KY	2,473	22	0.89%	2	9.09%
Hopkins County, KY	19,329	379	1.96%	84	22.16%
Jackson County, KY	6,897	52	0.75%	18	34.62%
Jefferson County, KY	372,219	7721	2.07%	1079	13.97%
Jessamine County, KY	20,833	370	1.78%	53	14.32%
Johnson County, KY	9,588	172	1.79%	71	41.28%
Kenton County, KY	80,254	1035	1.29%	99	9.57%
Knott County, KY	5,868	117	1.99%	77	65.81%
Knox County, KY	11,283	118	1.05%	44	37.29%
Larue County, KY	6,744	38	0.56%	3	7.89%
Laurel County, KY	24,629	493	2.00%	154	31.24%
Lawrence County, KY	5,531	41	0.74%	23	56.10%
Lee County, KY	2,709	52	1.92%	10	19.23%
Leslie County, KY	4,326	61	1.41%	23	37.70%
Letcher County, KY	8,109	221	2.73%	98	44.34%
Lewis County, KY	4,300	44	1.02%	5	11.36%
Lincoln County, KY	11,438	78	0.68%	13	16.67%
Livingston County, KY	4,909	45	0.92%	9	20.00%
Logan County, KY	11,691	93	0.80%	9	9.68%
Lyon County, KY	3,320	27	0.81%	5	18.52%
McCracken County, KY	32,496	496	1.53%	83	16.73%
McCreary County, KY	5,921	46	0.78%	25	54.35%
McLean County, KY	4,229	194	4.59%	12	6.19%
Madison County, KY	36,033	178	0.49%	42	23.60%
Magoffin County, KY	5,031	186	3.70%	160	86.02%
Marion County, KY	11,815	141	1.19%	15	10.64%
Marshall County, KY	14,198	28	0.20%	4	14.29%
Martin County, KY	3,699	480	12.98%	125	26.04%
Mason County, KY	8,267	56	0.68%	14	25.00%
Meade County, KY	11,071	58	0.52%	5	8.62%

## A Comparison by County Labor Force, Lost Time First Reports of Injury (FROI) and Litigated Claims

County Name	Labor Force	FROIS	% of FROIS to Labor Force	Claims	% of Claims to FROIS
Menifee County, KY	3,254	15	0.46%	4	26.67%
Mercer County, KY	10,527	119	1.13%	16	13.45%
Metcalfe County, KY	4,594	30	0.65%	5	16.67%
Monroe County, KY	4,531	61	1.35%	8	13.11%
Montgomery County, KY	13,305	149	1.12%	39	26.17%
Morgan County, KY	5,041	36	0.71%	14	38.89%
Muhlenberg County, KY	12,503	144	1.15%	25	17.36%
Nelson County, KY	19,866	285	1.43%	54	18.95%
Nicholas County, KY	2,332	16	0.69%	2	12.50%
Ohio County, KY	10,188	99	0.97%	13	13.13%
Oldham County, KY	25,546	172	0.67%	31	18.02%
Owen County, KY	4,173	30	0.72%	6	20.00%
Owsley County, KY	1,788	15	0.84%	4	26.67%
Pendleton County, KY	7,009	47	0.67%	5	10.64%
Perry County, KY	11,746	348	2.96%	157	45.11%
Pike County, KY	25,717	733	2.85%	489	66.71%
Powell County, KY	6,198	47	0.76%	13	27.66%
Pulaski County, KY	26,999	599	2.22%	130	21.70%
Robertson County, KY	1,038	1	0.10%	0	0.00%
Rockcastle County, KY	6,152	64	1.04%	13	20.31%
Rowan County, KY	11,275	145	1.29%	29	20.00%
Russell County, KY	5,817	87	1.50%	9	10.34%
Scott County, KY	18,255	384	2.10%	86	22.40%
Shelby County, KY	18,803	365	1.94%	48	13.15%
Simpson County, KY	8,418	166	1.97%	27	16.27%
Spencer County, KY	5,850	21	0.36%	4	19.05%
Taylor County, KY	9,474	180	1.90%	36	20.00%
Todd County, KY	4,960	43	0.87%	4	9.30%
Trigg County, KY	6,014	72	1.20%	9	12.50%
Trimble County, KY	3,538	21	0.59%	5	23.81%
Union County, KY	5,845	124	2.12%	33	26.61%
Warren County, KY	51,777	903	1.74%	104	11.52%
Washington County, KY	6,093	57	0.94%	12	21.05%
Wayne County, KY	8,841	91	1.03%	9	9.89%
Webster County, KY	5,574	126	2.26%	87	69.05%
Whitley County, KY	14,490	466	3.22%	162	34.76%
Wolfe County, KY	2,911	23	0.79%	8	34.78%
Woodford County, KY	12,495	220	1.76%	32	14.55%
Out of State		3251		660	20.30%
Total	1,956,401	35,015	1.79%	7,174	20.49%



# Work-Related Fatalities

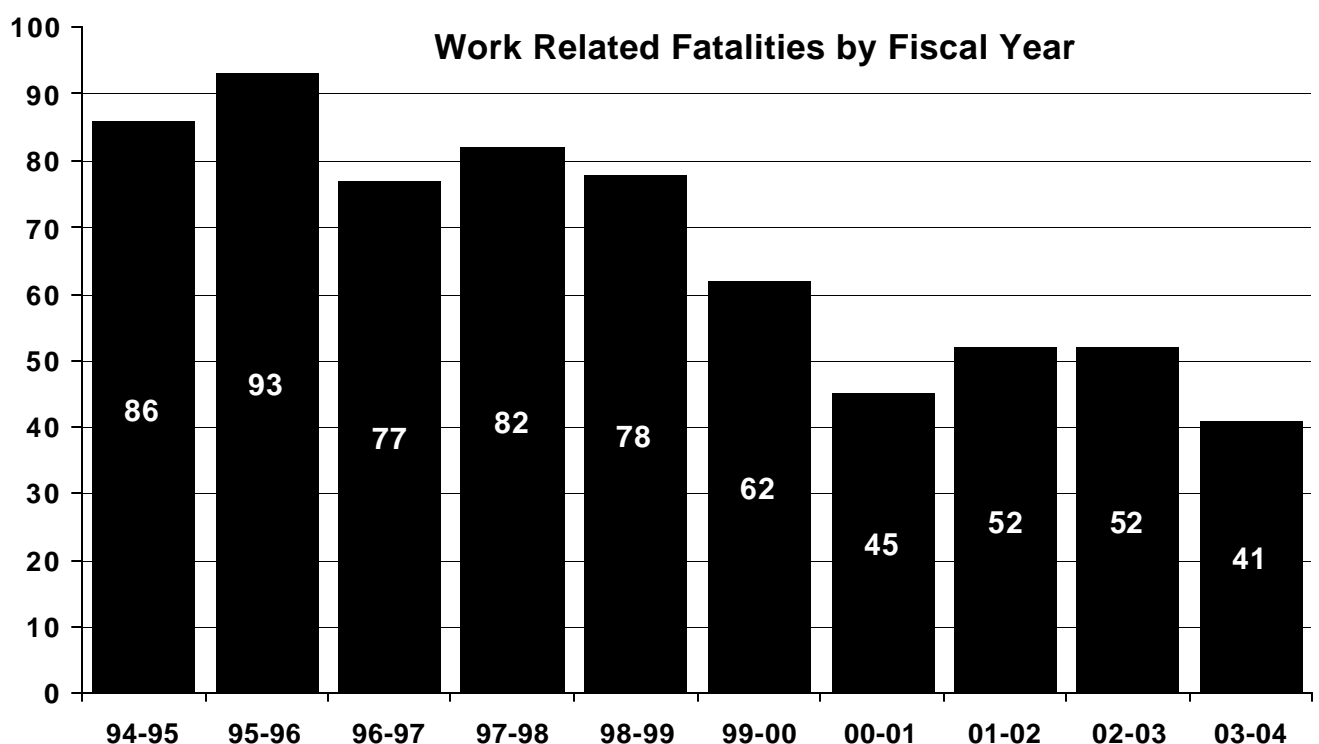
Initially, there were 120 on the job fatalities reported to the Office of Workers' Claims in fiscal year 2003-2004. After investigation, 41 of these deaths were determined to be work-related (lowest in 10 years); the remainder have been ruled not work-related, not a Kentucky claim, death prior to reporting period, or contain issues which are still in a pending status.

A 23 year old male comprised the youngest casualty reported this fiscal year. He died as a result of a motor vehicle accident. The oldest, a 65-year old male, was crushed by falling equipment.

The most common cause of the injuries that led to these deaths were motor vehicle accidents (11) and workers being struck by machinery or flying/falling parts (9). Six workers died from falls or slips.



Occupations of these workers ranged from Airplane pilots and navigators to painters, guards/police and janitors, milling and planing machine operators and truck drivers. The construction industry was the most deadly, reporting 10 fatalities. The transportation/communication/public utilities industry claimed 9 lives. The public administration and services sector claimed 3 lives.



# Fiscal Performance



The Office of Workers' Claims receives 100% funding from an assessment levied on workers' compensation insurance premiums and simulated premiums on self-insurance employers, which is collected by the Workers' Compensation Funding Commission (KRS 342.122). These funds are restricted and no general fund dollars are appropriated for OWC operations.

The Office's enacted budget for Fiscal Year 2004 was \$17,093,300. As of June 30, 2004, OWC had spent and encumbered \$12,837,428 or 75.1% of the enacted budget.

The Office has and will meet all budget reduction targets for discretionary expenditures and personnel reductions as required by Governor's Executive Order 2002-1334 and House Bill 269 as enacted by the 2003 General Assembly.

# OWC PERSONNEL AD BUDGET HISTORY

FY 1989-90 through FY 2003-04

FISCAL YEAR	PERSONNEL CAP	PERSONNEL ACTUAL	BUDGET ALLOTMENT (\$)	ACTUAL EXPENDITURES (\$)	DIFFERENCE (\$)	PERCENT of BUDGET EXPENDED
2003-2004	195	188	13,649,200	10,735,937	(2,913,263)	78.7%
2002-2003	242	201	16,397,700	13,384,935	(3,012,765)	81.6%
2001-2002	242	204	15,806,800	13,373,836	(2,432,963)	84.6%
2000-2001	242	208	14,942,300	12,716,927	(2,258,373)	85.1%
1999-2000	268	207	15,637,000	12,387,288	(3,249,712)	79.2%
1998-1999	268	208	14,994,000	12,606,188	(2,387,812)	84.1%
1997-1998	272	227	15,182,500	12,588,527	(2,593,973)	82.9%
1996-1997	272	229	12,137,900	11,057,391	(1,080,509)	91.0%
1995-1996	207	138	9,822,200	9,479,970	(342,230)	96.5%
1994-1995	210	120	9,757,200	8,586,716	(1,170,484)	88.0%
1993-1994	167	159	7,860,000	7,337,688	(522,312)	93.4%
1992-1993	167	160	7,505,100	7,004,561	(500,539)	93.0%
1991-1992	153	150	6,901,600	6,497,815	(403,785)	94.0%
1990-1991	155	149	6,737,300	6,487,540	(249,760)	96.0%
1989-1990	139	136	5,695,100	5,295,835	(399,265)	93.0%

# Office of Administrative Services

The Office of Administrative Services is responsible for insuring all financial transactions and personnel actions are: executed in a timely manner, comply with applicable laws and regulations, properly documented, and allocated to the



appropriate Program Budget Unit. The Office manages and executes the annual budget and all contracts & leases; responds to all requests for publications and forms; processes all incoming and outgoing mail; procures supplies and equipment; maintains infrastructure for eighteen agency locations; coordinates training; and provides daily assistance to all Divisions of the Office. The Office's Technical Support Branch is

responsible for: purchasing and installing all hardware and software; designing and developing all data systems inclusive of maintaining and enhancing databases and applications; responding to end user and stakeholder inquiries; maintaining complex network and insuring system backups; maintaining, managing, and enhancing the agency website inclusive of developing new web-enabled programs; processing all Electronic Data Interchange transactions; scheduling computer related training for all agency employees; and provides daily support to all Divisions of the Office.

By virtue of statutory directives, the OWC makes available by publishing the following:

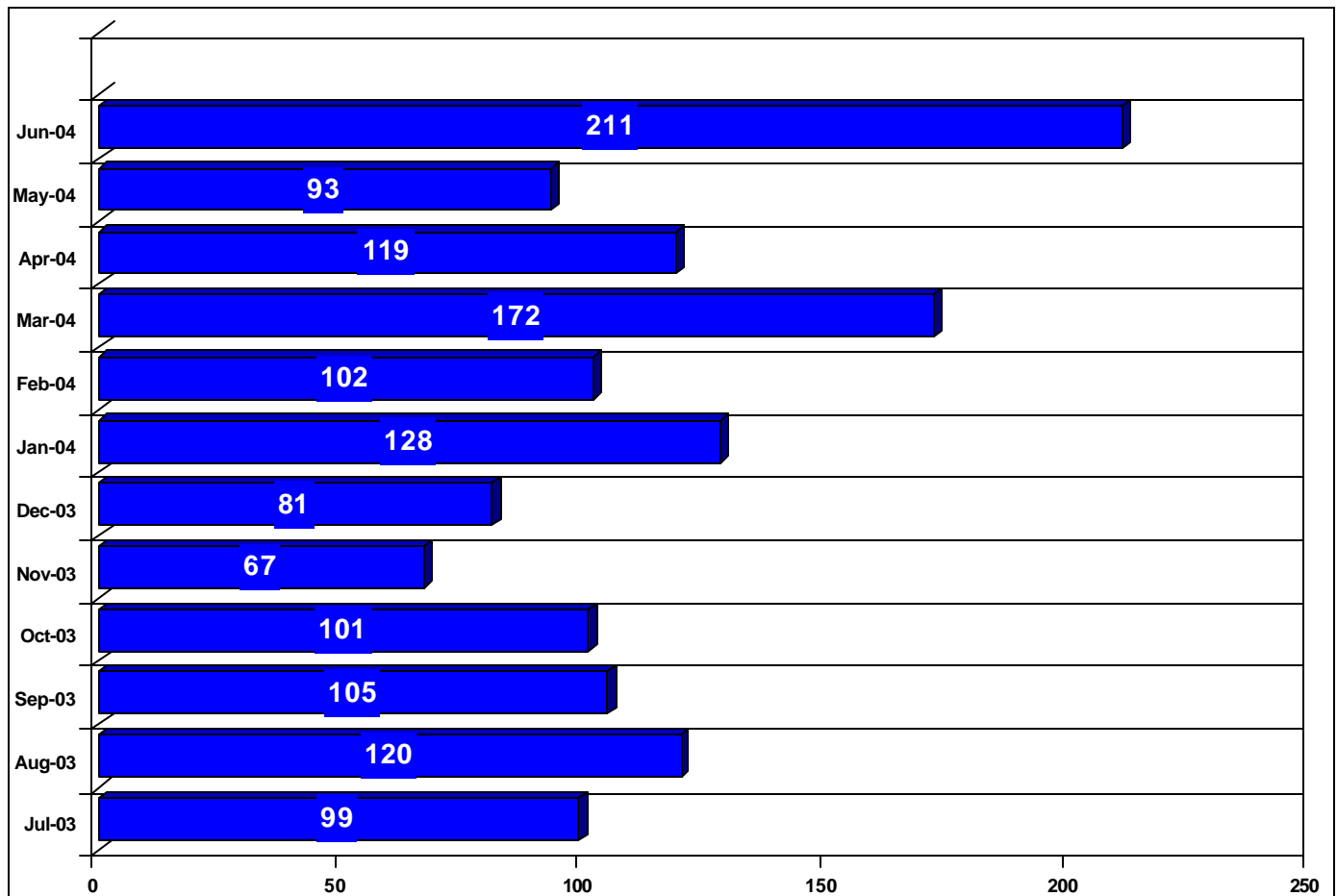
- Medical Fee Schedule for Physicians
- Executive Director's Report on "B" Readers
- Hospital Fee Schedule
- Annual Report
- Benefits Schedule
- Quarterly Report
- Compliance Inspection Pamphlet
- Present Worth Table
- W/C Guidebook
- Workers' Compensation Rates
- W/C Forms
- Annual Review of Self-Insurance
- W/C Posting Notice
- Life Expectancy Tables
- Rehabilitation Pamphlet
- Certificate of Self-Insurance
- Posting Notice of Education & Training
- List of "B" Readers for CWP
- Acute Low Back Pain Booklet

# Technical Support

The Technical Support & Design and Development Section responds to all technical, networking and programming needs for the Office of Workers' Claims and its eleven (11) field offices. During FY 2003-04 technical support staff performed a variety of routine tasks ranging from updating Microsoft security patches and all dat files on workstations and servers to rebuilding servers and upgrading agency operating systems to XP/XP office or W2K/XP office. In addition to tasks often associated with Technical Support Services, such as user support, equipment maintenance, and equipment surplus, staff also worked with members of the Environmental and Public Protection Cabinet (EPPC) relative to Proxy settings and reports as well as issues associated with merging onto one domain.

Design and Development staff worked with the Commonwealth's Office of Technology (COT) to resolve deficiencies within the agency's *Server-based System for Information Management and Business Applications* (SIMBA). Unlike its AS400 predecessor, SIMBA is an integrated system which not only writes records to the Office's databases but also indexes the pleading into a FileNet Optical Image System. Due to the complexities associated with implementing and maintaining an integrated information system program changes are often warranted. As a result of regular monthly user meetings, Design and Development staff are able to identify and update SIMBA with features that will increase productivity and data reliability.

## Help Desk Totals FY 03-04



## Office of General Counsel

As with the Office of Administrative Services, the agency's Office of General Counsel was consolidated with the newly created EPPC as a result of Governor Fletcher's executive order reorganization. However, the responsibilities of the Office of Workers' Claims, Office of General Counsel, during this reporting period was to provide legal support services to OWC in numerous legal capacities. The office advises the Executive Director's office as to responsibilities with regard to personnel actions under KRS Chapter 18A, and defends the Agency against any actions, personnel or otherwise, that are filed against the Office. Additionally, the General Counsel's Office has responsibility for promulgating regulations required of the Office and drafting and reviewing legislation.

The Office provides assistance to the Enforcement Branch in ensuring compliance with Workers' Compensation laws for imposition of injunctions and fines against employers who neglect or refuse to provide Workers' Compensation coverage for their employees. In circumstances where an employee is injured and their employer has failed to provide insurance coverage liens are filed against assets of uninsured employers pursuant to KRS 342.770. The Office is responsible for reviewing open records requests in compliance with the state's open records law. The Office works closely with the Division of Workers' Compensation Specialists and Ombudsman in investigating unfair claims practices, and is responsible for issuing citations and representing the Office at hearings when it has been determined that an unfair claims practice has occurred.

During this past fiscal year, the General Counsel's Office has collected \$251,805 in fines and penalties. The office received 539 citation cases, 29 unfair claims settlement practice cases, and 17 new fraud cases, all representing increases over the prior year. This Office has filed restraining orders and collection actions in circuit court, held formal hearings and show cause hearings before administrative law judges, and drafted agreed orders for settlements with regard to the above cases. The Office of General Counsel has also represented the agency, more specifically the Coverage and Compliance Division, with regard to self-insurance legal issues and/or bankruptcy proceedings. The current economy has forced more companies into bankruptcy and/or reorganization.





## Administrative Law Judges

The Office of Workers' Claims has 19 Administrative Law Judge (ALJ) positions allocated. Each Administrative Law Judge (ALJ) is appointed by the Governor for a 4 year term from a list of three (3) names submitted by the Workers' Compensation Nominating Commission. Each ALJ is subject to confirmation by the Kentucky State Senate. One of the ALJs is designated Chief Administrative Law Judge pursuant to KRS 342.230(8).

Honorable Sheila C. Lowther, Chief Administrative Law Judge, is assigned to the Frankfort, Kentucky office. Judge Lowther was reappointed as of 1/1/04. The Chief Administrative Law Judge (CALJ) presides over a motion docket on Tuesday and Thursday, a settlement docket twice each week, and a CWP docket one day each week. The CALJ prepares a rotation schedule for the ALJs, plans two adjudicator training sessions annually, conducts enforcement hearings, takes initial assignment of all CWP claims, covers dockets for other ALJs on an emergency basis, and coordinates all ALJ activity.

The ALJs oversee the adjudication of claims filed with the Office of Workers' Claims. The ALJs are required to conduct benefit review conferences and formal hearings in these claims. Thereafter, they are required to issue decisions in the claims within 60 days after the date of the hearing. These decisions must contain findings of fact and rulings of law, and are subject to appeal to the Workers' Compensation Board, Court of Appeals, and the Supreme Court.

Benefit review conferences and hearings are held at the twelve hearing sites in Kentucky maintained by the Office of Workers' Claims. These hearing sites are located in Ashland, Bowling Green, Florence, Hazard, Lexington, London, Louisville, Madisonville, Owensboro, Paducah, Pikeville and Pineville.

During the past fiscal year, the ALJs presided at 5,818 benefit review conferences. A substantial number of those cases were settled. Formal hearings were held in the remainder. The ALJs presided at 2,673 formal hearings. They issued 2,210 opinions, and issued an additional 97 opinions in cases which were remanded on appeal.

### Attorney Fees Awarded During FY 2003-04

	<b>Number of Fees Approved</b>	<b>Total Fees Awarded</b>	<b>Average Fee</b>
<b>Plaintiff</b>	<b>5,187</b>	<b>\$21,722,365</b>	<b>\$4,187</b>
<b>Defense</b>	<b>3,782</b>	<b>\$15,832,562</b>	<b>\$4,186</b>

## Summary of FY 03-04 Significant Workers' Compensation Cases

**Jewish Hospital v. Ray**, Ky. App., 131 S.W. 3d 760 (2004)-The Kentucky Court of Appeals held that: (1) ALJ was to use latest edition available of American Medical Association (AMA) "Guides to the Evaluation of Permanent Impairment" ("Guides") in determining claimant's permanent impairment rating, even though latest edition came out after claimant suffered injury, and (2) even if adoption of each subsequent edition of "Guides", rather than edition in effect at time of claimant's injury, would have to be used in determining claimant's permanent impairment rating.

**Sears Roebuck & Company v. Dennis**, Ky. App., 131 S.W. 3d 351 (2004) –The Court of Appeals held that: (1) evidence supported finding that claimant became totally occupationally disabled as a result of combined effects of increase in his prior back impairment and psychological condition caused while working for employer at time of last back injury, and (2) apportioning claimant's medical expenses equally between two of claimant's former employers as warranted.

**Haines v. Bellsouth Telecommunications, Inc.**, Ky. App., 133 S.W. 3d 497 (2004) – Exclusive remedy decision. Employee with impaired hearing as a result of supervisor's sounding boat horn within one foot of employee. Kentucky Court of Appeals held that supervisor was entitled to workers' compensation immunity.

**Webster County Coal Corporation v. Lee**, Ky. App., 124 S.W. 3d 460 (2003) –The Kentucky Court of Appeals held that the Workers' Compensation Board erred in holding that appellant had waived a claim for the later injury by not raising the claim in her Form 101, or amending the Form 101. The ALJ properly allowed the latest claim to go forward when evidence was submitted regarding the later injury and the employer did not object to the introduction of the evidence and actively defended the claim for the later injury.

**George Humflett Mobile Homes v. Christman**, Ky., 125 S.W. 3d 288 (2004) –The Kentucky Supreme Court held that: The ALJ is required to choose from impairments that are determined under the latest edition of the Guides that is available as of the closing of proof. Where proof time spans the date upon which a new edition becomes available, the ALJ may extend proof time, or the parties may agree to have the claim decided under the previous edition.

**Copar, Inc. v Rogers**, Ky., 127 S.W. 3d 544 (2003) –Where the only evidence of an alleged psychiatric condition was hospital records, and the employer did not object to their use as a medical report until its tardy brief was filed, the ALJ was permitted to rely on the opinions they contained. 803 KAR 25:010E, 12(2) anticipates that medical opinions contained in hospital records will sometimes be considered by the ALJ. Although it specifies that the opinions contained in such records shall not be considered in violation of KRS 342.033, it does not require that they be signed by the author or that the qualifications of the author be attached.

**Cepero v. Fabricated Metals Corp.**, Ky., 132 S.W. 3d 839 (2004) –Medical opinions that were based upon inaccurate or incomplete information furnished by the claimant during independent medical examinations did not constitute substantial evidence to support a finding of work-related causation. In the absence of proof, the court will not assume that any competent physician would be aware of, but fail to mention a history of a prior injury to the same body part for which compensation is presently sought and which resulted in two months' confinement to a wheelchair as well as a recommendation of surgery.

**Brown-Forman Corp. v. Upchurch**, Ky., 127 S.W. 3d 615 (2004) –Workers' Compensation claimant's gradual injury claim was timely; claimant was able to rely on company physician statement that symptoms were not work-related and she timely filed claim within two years of date hand surgeon informed her that her problems were work related. Also, claimant not a medical expert and not required to self-diagnose the cause of her gradual symptoms.

**Roberts Brothers Coal Co. v. Robinson**, Ky., 113 S.W. 3d 181 (2003) –Where an individual is working without restrictions when injured, a finding of pre-existing impairment does not compel a finding of pre-existing disability with respect to a subsequent total disability award. Despite the existence of pre-existing, nonwork-related impairment, an award under KRS 342.730(1)(a) is permitted if work-related impairment, by itself, would be totally disabling.

**Autozone v. Brewer**, Ky., 127 S.W. 3d 653 (2004) –Where the injured worker received a federal pension but did not work in the private sector for enough quarters to receive old-age social security, the ALJ properly refused to limit the duration of the award under KRS.730(4).

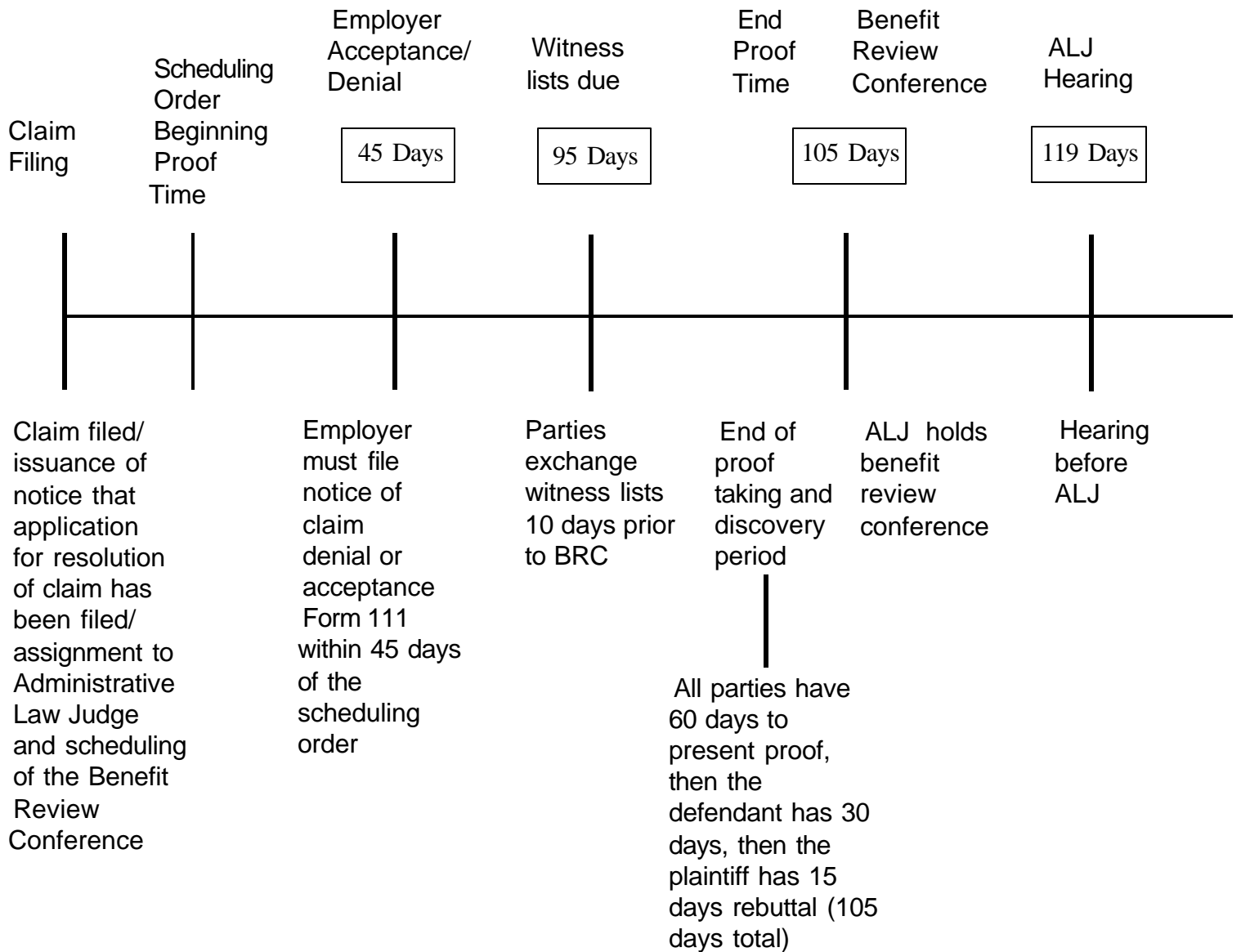
**Rogers v. Palm Beach Co, Inc.**, Ky., 114 S.W. 3d 848 (2003) –The employer's bankruptcy proceeding did not prevent the Office of Workers' Claims from deciding the merits of an injured worker's application for benefits and, therefore, did not toll the two-year period of limitations.

**Garrett Mining Co. v. Nye**, Ky., 122 S.W. 2d 513 (2003) –An ALJ may not make additional findings and increase an award under a different legal theory in response to a petition for reconsideration. KRS 342.120(7) requires the exclusion of pre-existing disability and precludes application of the whole man theory if consecutive injuries affect the same body functions and part of the award is apportioned to the Special Fund.

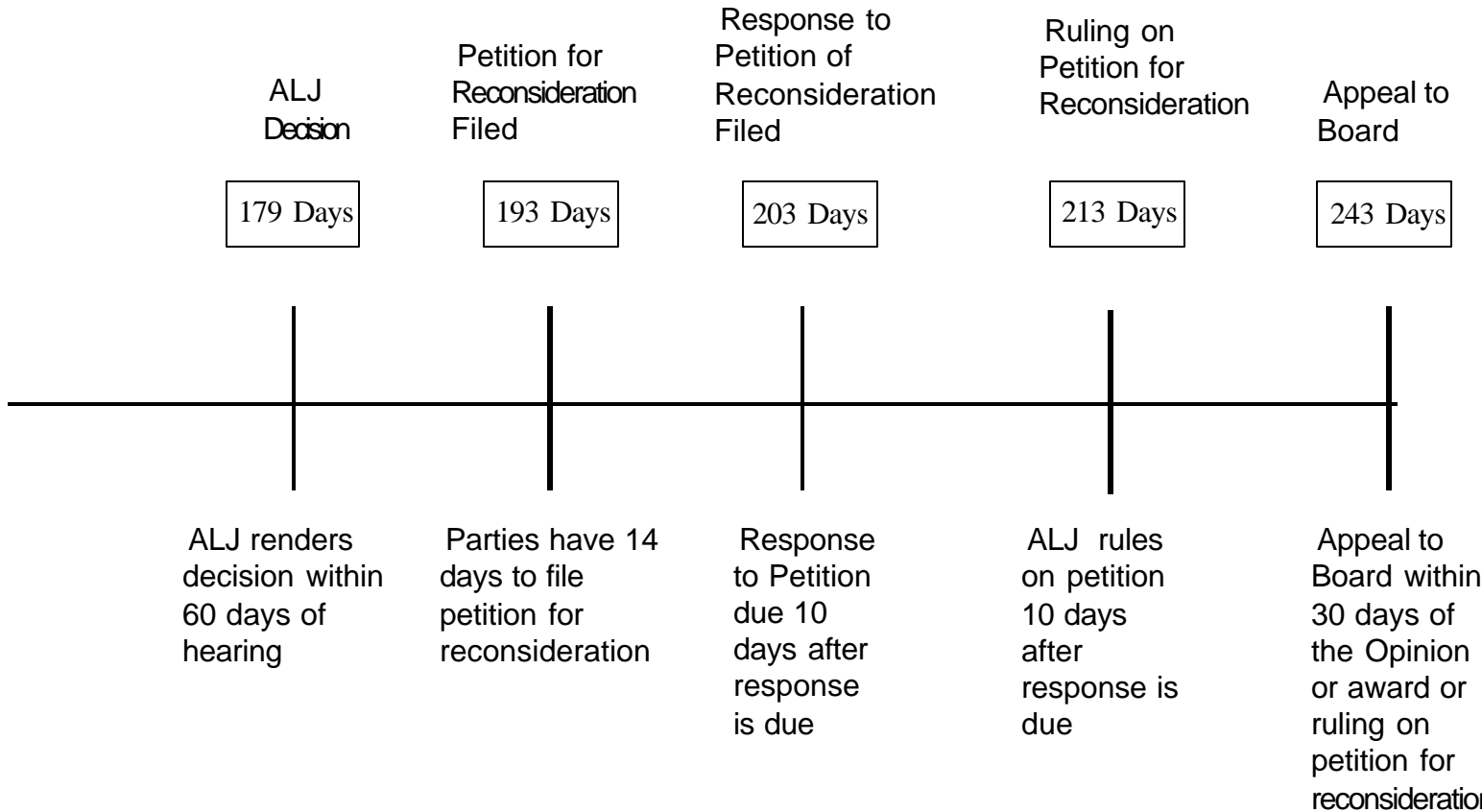
**Bartrum v. Hunter Excavating**, Ky. App., 2004 WL 1176244 -\*Currently on appeal to Kentucky Supreme Court-under procedure provided for by statute for obtaining benefits for coal workers who developed pneumoconiosis, coal worker was only permitted to submit one x-ray for analysis in consensus proceeding by randomly selected x-ray readers, and he was not permitted to submit other x-rays to rebut the conclusion of the readers. Exclusion of additional x-ray evidence in rebuttal in coal worker's claim for pneumoconiosis benefits violated due process.

**Day v. Fairbanks Coal Co.**, Ky. App., 2004 WL 596236 -\*Currently on appeal to Kentucky Supreme Court-Chest x-ray submitted to the B-Reader panel, pursuant to KRS 342.794, were not indelibly labeled with the date they were taken and were, thus, not admissible.

# Kentucky Workers' Adjudication



# Compensation Timeline



# Claims Processing & Appeals



The Division of Claims Processing and Appeals is comprised of the Appeals Branch and the Claims Branch. The key responsibilities of this Division includes the timely processing and assignment of applications for Resolution of Injury (Form 101), Occupational Disease (Form 102) and Hearing Loss (Form 103) claims. Additionally, staff prepares widows benefits, pre litigation agreements and appeals from decisions of the Administrative Law Judge to the Workers' Compensation Board, Court of Appeals and Supreme Court.



The Claims Branch consists of four sections: Claims Assignment, Docket, Case Files, and Agreement.

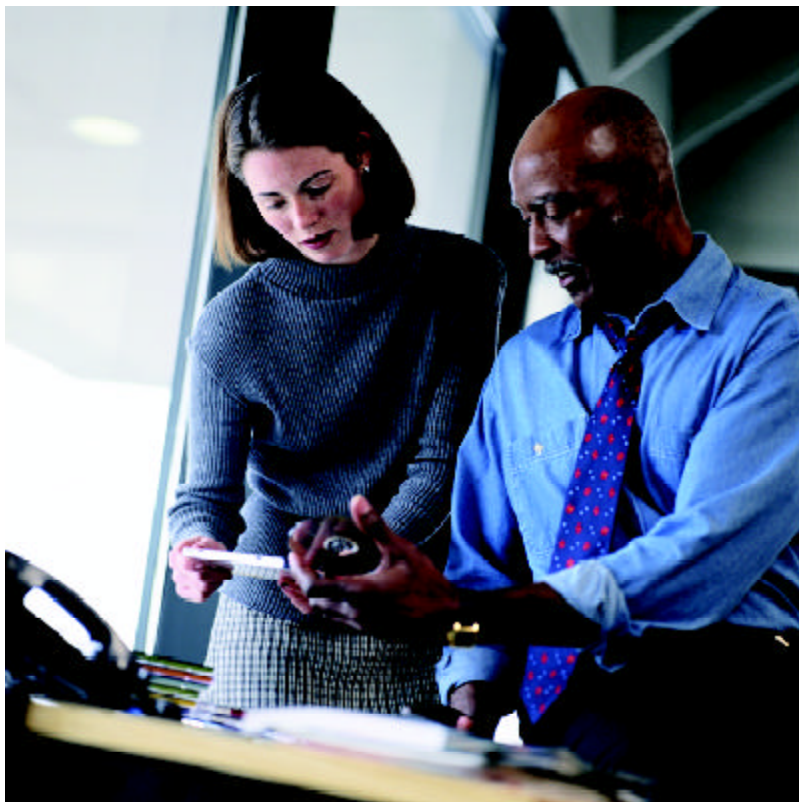
The **Claims Assignment Section** receives and processes all new applications for resolution of claim, older claims that have been reopened by order from the Frankfort motion docket, and medical disputes. They assign the claims and reopenings to the Administrative Law Judges and schedule the benefit review conferences and court reporter services. For the fiscal year 2003-2004, **5,646** new claims were received. Of that number, **355** were Coal Workers' Pneumoconiosis (CWP) claims. They timely assigned **4,817** new claims and **852** cases from the motion docket (reopenings, etc.) were assigned to the Administrative Law Judges for Benefit Review Conferences.

The **Case Files Section** receives and processes motions to reopen, attorney fee motions, and miscellaneous motions in cases that have not been assigned to the law judges, and prepares them for assignment to the Docket Section at the appropriate time. During this period, Case Files processed a combined total of **2,896** motions. The section reviews correspondence in cases that have been assigned to the judges and forwards them to the appropriate judge in a timely manner. The section audits the files that are returned to the Frankfort office by the judges after final decisions have been rendered and the time for appeal to the Board has expired. They conducted audits on **5,673** files in which final decisions had been rendered, and purged a total of **5,812**.

The **Docket Section** prepares motions in cases that have not been assigned to an Administrative Law Judge and places them on the Frankfort Motion Docket for a ruling by the Chief Administrative Law Judge (CALJ). Staff attends docket meetings to record the rulings of the CALJ. During this fiscal year, **65** motion dockets were held, which addressed **3,307** motions.

The **Agreement Section** receives and processes all pre-litigation agreements as to



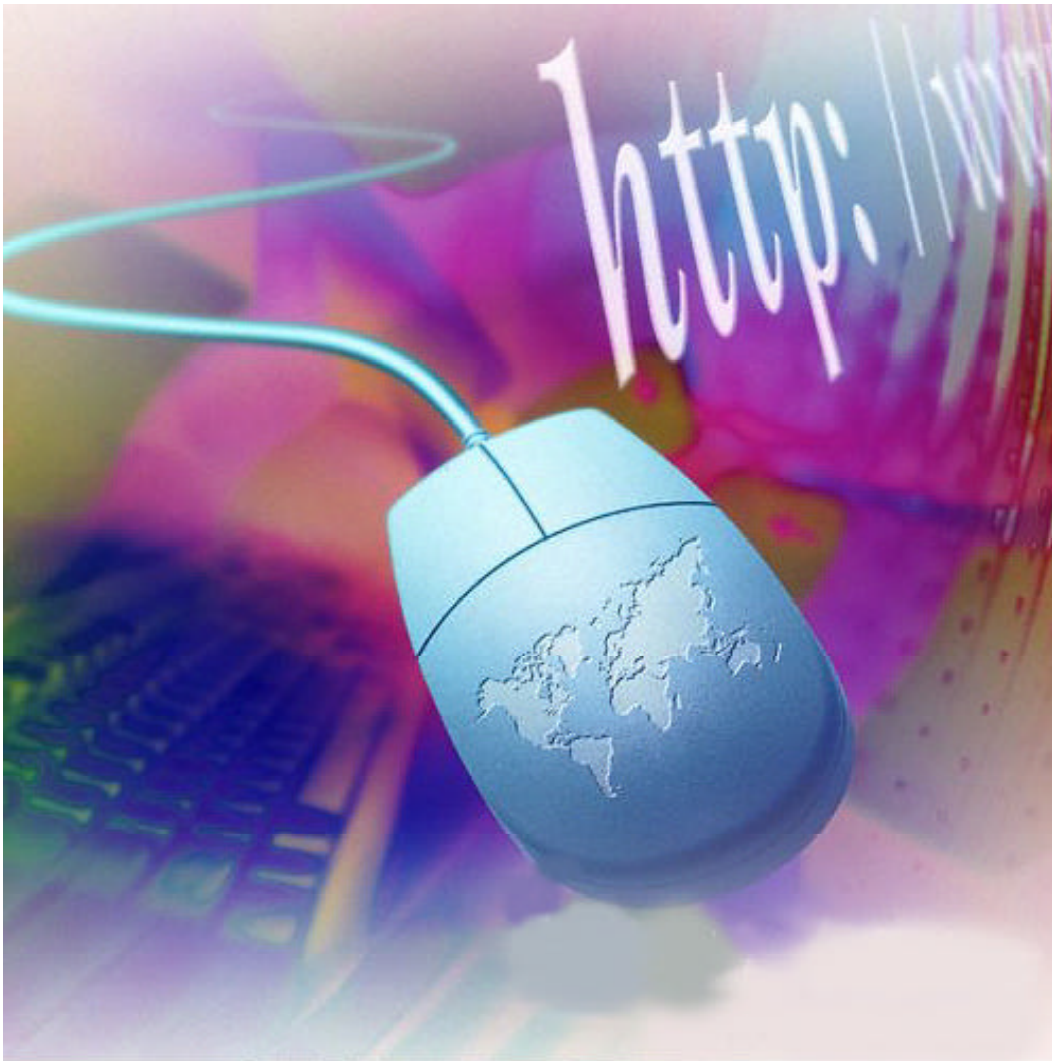


compensation filed on first reports of injury only, motions for attorney's fee filed on pre-litigation agreements, lump sum settlements, and requests for widow's benefits. During Fiscal Year 03-04, **3,988** agreements, **533** lump sum settlements, **1,015** attorney's fees and **206** widow's benefits were approved.

The **Appeals Branch** is responsible for processing appeals from decisions of the Administrative Law Judges to the Workers'

Compensation Board (Board), Court of Appeals and Supreme Court. All inquiries regarding the status of active appeals are directed to the Appeals Branch. Personnel work closely with the Board to make ready and present motions on a weekly basis for appropriate action. The appeals staff also prepares and transfers claim files to the Board and the Court of Appeals. Additionally, they process all orders and opinions rendered by the appellate courts. During this reporting period, **703** ALJ decisions were appealed to the Board, **136** Board decisions were appealed to the Court of Appeals and **79** Court of Appeals decisions were appealed to the Supreme Court. A total of **146** files were prepared and transferred to the appellate courts. The staff processed **137** Court of Appeals opinions and **70** Supreme Court opinions.

# Information and Research



The Division of Information and Research encompasses the Records Branch and the Imaging Branch. The key responsibility of this Division includes entry, compilation, storage, and retrieval of data, and dissemination of information.

## Imaging Branch

The Imaging Branch is primarily responsible for imaging and verifying all hard-copy documents, as well as indexing them into the agency's integrated optical and information systems. This equated to 234,263 documents or 1,738,724 sheets last Fiscal Year. Additionally, imaging personnel completes all in-house microfilm requests, as well as updates the Microfilm database with information concerning re-openings and consolidations. Retention and destruction of agency records is another function managed within the Imaging Branch. All document series are maintained in accordance with the retention schedule approved by the Department for Libraries and Archives.

## Records Branch

The **Electronic Data Interchange (EDI)** system, which is used by carriers and self-insured employers to electronically report data, has been used in Kentucky since 1996. Data transferred via EDI is monitored and coded by the EDI section within the Records Branch. This section has over 10,000 codes available for committing specific information about each injury which will later be used for tracking purposes and as system triggers for issuing statute of limitation letters based on the date of injury or last receipt of temporary total disability benefits. In the event a claim is filed on an injury or occupational exposure not initially reported, staff manually enter first report information from the application to ensure that the agency's records are complete and that there are no workflow interruptions. Information compiled by this section is utilized throughout the office as the claim progresses through the adjudication process. In FY 03-04 the EDI section received 44,927 first reports electronically.

The **Data Entry Section** within the Records Branch receives 90% of the documents filed with the Office of Workers' Claims (OWC). Employees are responsible for updating the Injury Status database with approximately 350 active status codes, 53 dispositions and over 100 variables all of which provide more details regarding the claim status. These codes are used by research staff to generate statistics, and by specialist to deliver immediate assistance to claimants,

attorneys, employers and carriers. In FY 2003-04 Data Entry received 136,005 pieces of mail (pleadings, motions, responses, etc.), 34,669 orders from the Administrative Law Judges, 2,253 awards/opinions, and 2,288 docket orders. Each document requires human intervention and interpretation so that it may be put into the information system correctly.

Pursuant to KRS 61.872 (2), the **Open Records Section** responds to requests for claim and first report information. Requests are received from attorneys, insurance carriers, employers, Social Security Administration and the general public. During this fiscal year, staff processed 16,133 requests from the public and attorneys, as well as 189 requests from the Social Security Administration. Complete files or individual documents are certified upon request. Oral depositions are also provided upon request. Pre-employment inquiries, which totaled 14,945, ranked second among the most frequently requested material. However, pre-employment searches are conducted only after the OWC has been furnished with a written request, accompanied by a signed employee authorization form.

Additionally, pursuant to KRS 150.170, this section also verifies workers' compensation awards for the Department of Fish and Wildlife for individuals applying for free Hunting and Fishing licenses. 138 applications for hunting and fishing licenses were processed by the OWC during FY 03-04.



## Research Section

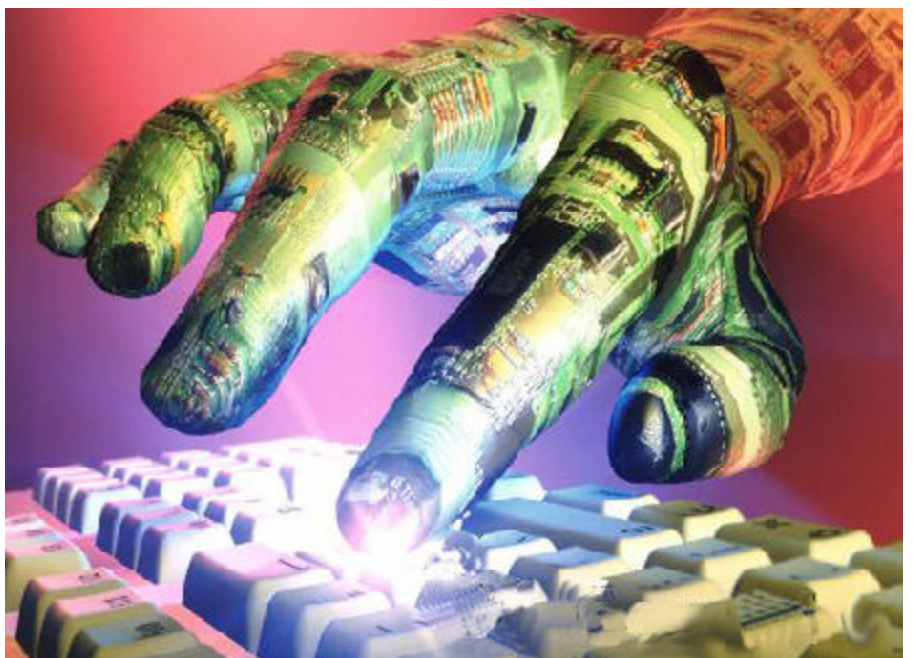
The Research Section within the Records Branch conducts multifaceted specialized industry and injury research by collecting, reviewing and comparing data relevant to workers' compensation issues and Kentucky's Office of Workers' Claims. Research staff writes complex SQL queries to extract data from the agency's Server Based System for Information Management and Business Applications (SIMBA) system. Staff is familiar with the 89 tables that are housed in the SIMBA database and all current and historical codes used by the EDI and Data Entry sections. Employees of this section format reports to answer in depth open records requests and monitor agency, carrier and employer performance. This data is necessary to track the overall effectiveness of the program as well as specific areas of legislative interest.

Data collected from First Reports of Injury, Subsequent Reports of Injury and various other OWC databases provides the statistical reports and analyses compiled by the Research staff. Quarterly activity reports and OWC's annual report to the Governor are examples of research, analysis and compilation of duties of the Research staff. Value added research efforts extend to monitoring and evaluating program performance.

Research conducted by this staff is also generated by requests from other agencies. Attorneys, government agencies, health care representatives, the media and others submit data requests. Research results are used in a variety of ways: to assist in claim filings, to prepare for safety training programs and to update state and national data banks as well.

In addition to monitoring the agency's statistical progress, the Research Section compiles, designs and edits office publications including the Quarterly and Annual Reports to the Governor, Workers' Compensation Guidebook, Retraining Benefits Posters, and Legislative Change brochures. These publications are vital in helping constituents and the public understand the complex workers' compensation system. All publications are produced for print as well as web publishing. This section also maintains information sharing agreements with other state agencies

(Medicaid, Revenue, Retirement, and the Office of Insurance) and aids Administrative Services' Technical Support Section in maintaining data integrity. Due to the nature of work being performed within the Research Section, staff often identifies data inconsistencies that are not apparent to average users. As a result, data clean-up queries are generated and disseminated to rectify such situation.



# Security & Compliance



The focus of this Division is to ensure that non-exempt employers maintain workers' compensation coverage for their employees. There are three branches that make up this Division. The Self-Insurance Branch audits the individual and group self-insured employers, monitors the financial strength of individual self-insured employers, and determines the surety requirements necessary to secure benefits for the self-insured employers' workforce. The Coverage Branch maintains records to document proof of coverage for each insured Kentucky employer. The Enforcement Branch investigates the status of Kentucky employer's insurance coverage through on-site visits to encourage compliance with the Workers' Compensation Act in order to ensure that workers within the Commonwealth are protected in the event of a workplace accident.



**Self-Insured Groups** – Per statutory requirements, the Office of Workers Claims continued to examine the operations of the self-insured workers compensation groups. During the year, the examination report on Kentucky School Boards Insurance Trust Workers Compensation Fund was completed; the examination of Forest Industry Self-Insured Fund was initiated; and an examination of AIK Comp was initiated subsequent to its disclosure to the Office of Workers Claims that preliminary financial statements indicated a significant deficit. As of July 2004 the Group Self Insureds have been moved under the Department of Insurance.

Forest Industry Self-Insured Fund submitted a remedial plan after it reported a deficit as of 12/31/03. The plan was accepted by the Office of Workers Claims. Kentucky School Boards Insurance Trust Workers Compensation Fund provided, as required, updates on its remedial plan designed to eliminate a deficit reported on 12/31/02.

**Individual Self-Insurers-** At the end of the fiscal year there were 173 individual self-insured companies, five of which were on the self-insurance watch list.

Although there were no bankruptcies of current or former self-insured during the year, there have been a few former self-insured's that became insolvent and it appears there will not be enough surety to pay all the liabilities they incurred while self-insured. As a result, a new method for establishing the surety requirement was established. This new method utilizes a model that was produced by John Booth, an actuary with Tillinghast. This new method is intended to help assure that the surety will be enough to cover all liabilities if a former or current self-insured become insolvent. The new method requires current self-insurers to submit information on closed claims that was not required in the past.

It was discovered that the main cause of having inadequate surety for those few former self-insured companies was that the companies were under reporting reserve amounts to the OWC. In order to prevent this in the future the Self Insurance Branch began the process of reviewing reserving practices of current individual self-insurers. Reviews of the companies currently on the watch list are presently underway.

**School Boards** -Agency staff continue to monitor the self-insurance pilot program of three school boards. In reference to the above cited boards of education the Office of Workers Claims has been monitoring their efforts to be successful with self insurance. Office staff

	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
<b>Companies on Watch-list</b>			13	9	5	6	4	8	5
<b>Individual Self-Insurers</b>	253	249	224	214	201	193	180	175	173
<b>Self-Insured Groups</b>	17	11	10	10	10	9	9	9	8

have been working with these boards in support of risk management programs, safety awareness, and claims management.

Staff has made several on site visits for support of programs needed to manage the current cost as well as future costs. The school systems have been very receptive to assistance. All boards now have a return to work program that has been successful. One county in particular has enacted a return to work initiative as a board policy along with a drug testing program for any injured employee.

OWC representatives have also been monitoring all known costs of the programs to evaluate the programs controls and successes. Claims for each board have been reviewed at their Third Party Administrator's office and discussed with their adjusters relative to reserving future costs of the claims.

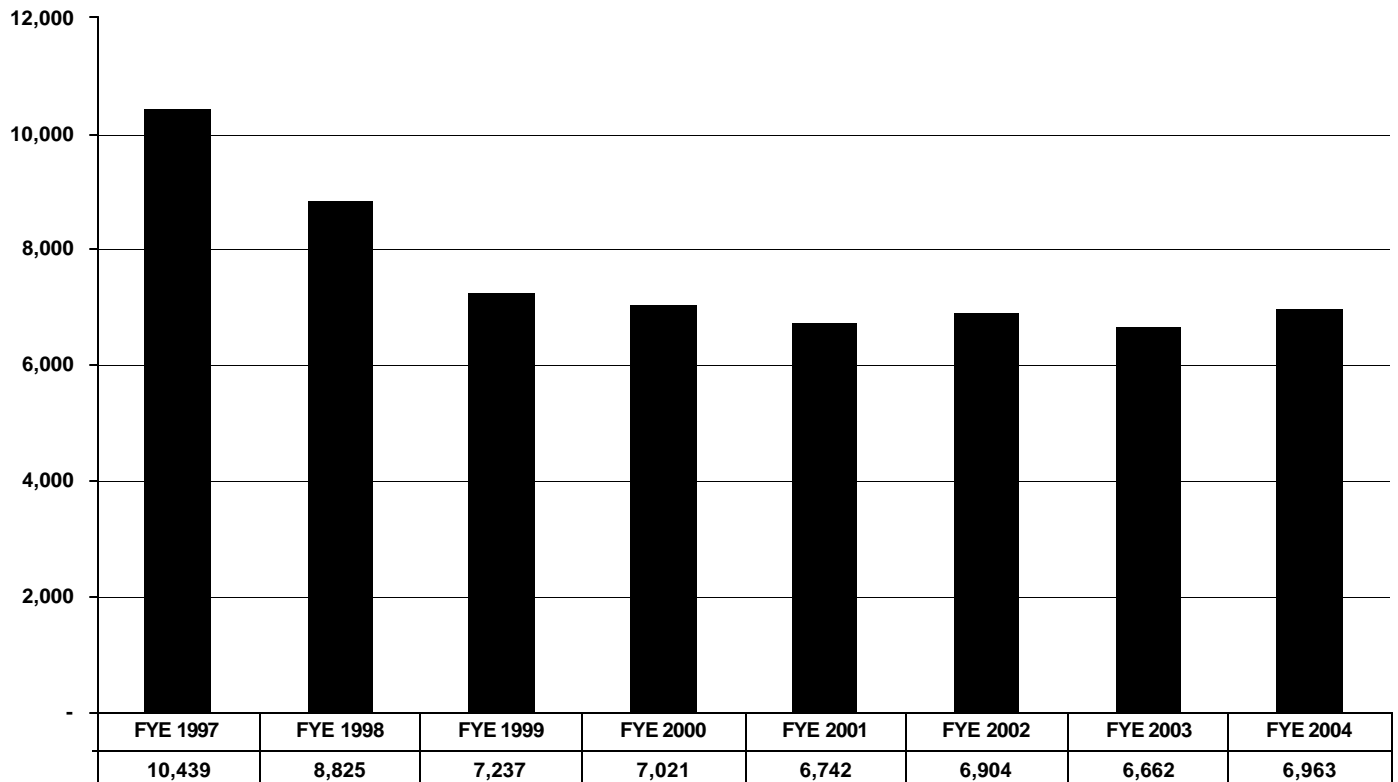
## **ENFORCEMENT BRANCH**

The goal of the Enforcement Branch is to assure employers subject to Kentucky Workers' Compensation Act are in compliance with statutory requirements. A staff of eight compliance officers located in regional offices across the state seeks to accomplish this objective. Timely voluntary compliance is encouraged by on site visits. HP Palmtop computers are utilized by the officers to record information obtained during the investigation. The data is then electronically transmitted to the Frankfort office. A support staff of three analyzes the information from various sources and assists with documentation in preparing citations against employers that are non-compliant. This fiscal year, officers completed 9,077 investigations. This resulted in 709 citations for civil penalties being issued for noncompliance of the Act. The Branch collected \$388,825.93 from assessed penalties. The chart below shows that the number of yearly investigations and citations has been comparatively consistent. This demonstrates that a small segment of Kentucky employers continue to operate without workers' compensation insurance.

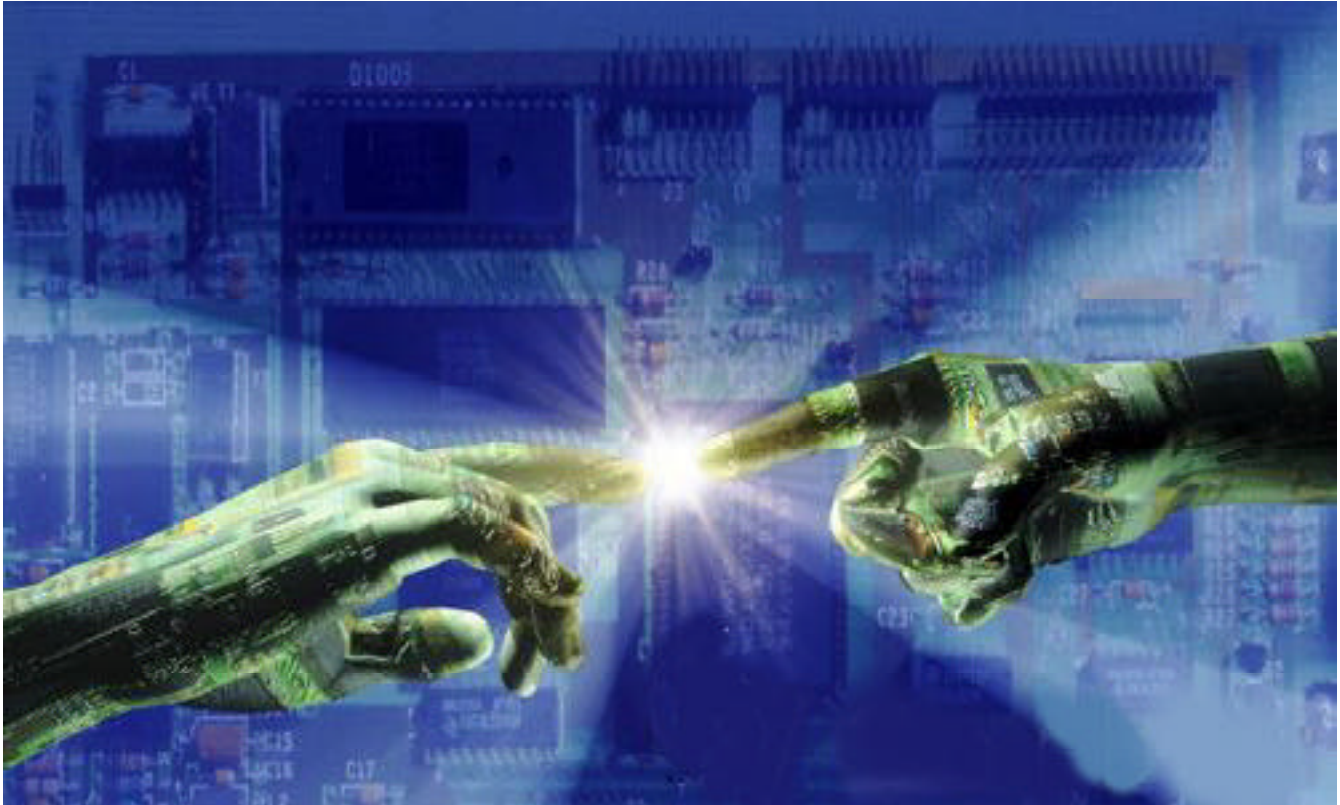
<b>Investigation Analysis 1999-2004</b>						
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
<b>Investigations</b>	9,990	10,208	10,248	11,173	10,095	8,993
<b>Citations</b>	571	560	768	461	447	709
<b>Collections</b>	\$490,597	\$308,418	\$249,297	\$252,564	\$296,609	\$388,826

Employees are provided the option of rejecting coverage from the Act by filing an Employees Written Notice of Rejection (**Form 4**). The Enforcement Branch maintains a database on the yearly filings of the notice. The yearly filings have significantly declined since 1997 as the chart below indicates.

### Employee's Written Notice of Rejection Filed with the Department of Workers' Claims



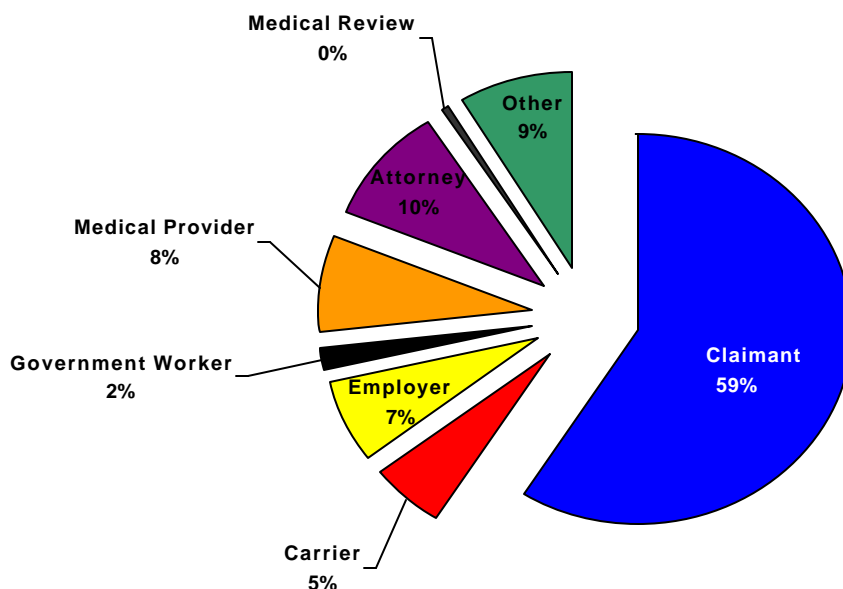
# Constituent Services



The Division of Ombudsmen and Workers' Compensation Specialists provides a centralized source of information and assistance. In addition to the Ombudsmen and the Workers' Compensation Specialists Services sections, the Medical Services section is included in this Division. The primary focus is on medical cost containment and facilitating the vocational rehabilitation and independent medical evaluation services.

During FY 2003-2004, the Division of Ombudsmen and Workers' Compensation Specialist Services continued its proactive efforts to provide assistance and information, responding to 17,505 requests. Most were completed within one week of the initial contact.

### **Division of Ombudsmen and Workers' Compensation Specialists Distribution of Requests for Assistance by Source**



The chart above represents the breakdown on the sources of requests. The listing below outlines the subject matter. The category 'Other' includes inquiries such as the attorney of record, the carrier/insurance agent, current mileage rate and miscellaneous questions of a general nature.

TOPICS	NUMBER OF CALLS
Rights and Procedures	8,936
Claim Status Request	2,570
Form Request	1,410
Coverage	1,183
Other	1,096
First Report of Injury	734
Referrals to Outside Agencies	598
Claim Filing Assistance	281
Medical Fee Schedule	225
Medical Fee Dispute	179
Utilization Review	119
Unfair Claims Settlement Practice Investigation	70
Fraud	60
Managed Care	37
Rehabilitation	7

Established in 1994, the Division of Ombudsman and Workers' Compensation Specialist Services is now in its tenth year of operation. The Division currently employs a dozen Workers' Compensation Specialists through out the state, six (6) in Frankfort and the remaining six (6) in branch offices in Louisville, Madisonville, Pikeville and Paducah.

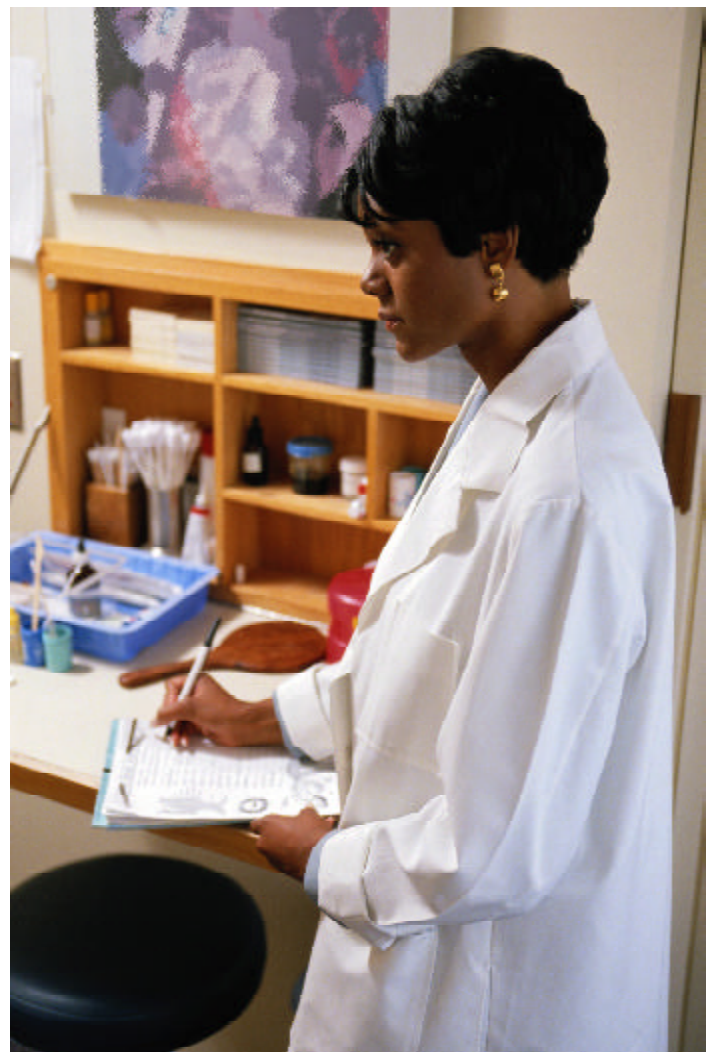
Toll-free telephone assistance is available to callers on all workers' compensation topics of interest to the public, including how to report or file a claim, dispute resolution, benefit information, rights and procedures, as well as a wide range of medical-related issues. Additionally, the Division also responds to constituent requests received through the agency's website on a daily basis.

Currently, the Ombudsman/Specialist section is actively involved with assisting and advising former radiation workers and their dependants who may seek state workers' compensation benefits in conjunction with the federal Energy Employees' Occupational Illness Program Act (EEOICPA). The U.S. Office of Energy is presently expediting these claims to speed the delivery of benefits to potentially-eligible Kentucky beneficiaries. The Office of Workers' Claims will lend all needed assistance in this effort.

The Ombudsman/Specialists are supervised by three (3) staff attorneys. Attorneys supervise all information and assistance given, as well as provide assistance on workers' compensation legal matters to attorneys, Administrative Law Judges, insurance professionals, other agencies and the public.

In addition to the Ombudsman/Specialist section, the Division also includes the Medical Services section. The primary

focus of this section is assistance in the provision of medical and rehabilitation benefits. Cost containment efforts are a major activity. The section assists the Executive Director in the development and publication of the Kentucky Medical Fee Schedule, which governs medical charges in workers' compensation cases. The 2004 edition is presently being prepared for publication. Assistance in the establishment and operation of managed care and PPS plans is a major cost containment activity.





A primary daily activity of the Office's Workers' Compensation Specialists is to assist in the prompt delivery of benefits. This is done by facilitating communication and exchange of information between the injured worker and his/her claims adjuster, employer and medical providers.

Three Workers' Compensation Specialists oversee the timely processing and payment of death benefit claims to the survivor's of deceased workers.

On occasions where a complaint is received that benefits are unreasonably denied or delayed, the Division's legal staff will initiate an inquiry as to whether an Unfair Claims Practices violation has occurred. The Executive Director is authorized to fine an insurance carrier for such violations in the delivery of benefits. The Division's legal staff prepares a report and recommendation on these complaints to the Executive Director via the Office of General Counsel. The Division's investigating attorney typically testifies as a witness at hearings conducted on the matter.

Prompt delivery of medical benefits is a priority. The Division's **Managed Care Section** oversees the operation of Kentucky's managed care plans, assuring that they are run in accordance with law and that utilization review procedures are conducted in a timely manner. During FY 2003-04, the section received 1824 inquiries in areas involving managed care, utilization review, medical fee schedule, pharmacy fee schedule, and hospital fee schedule. The hospital fee schedule, which became effective April 1, 2004 applies to the 110 hospitals in the state and to hospitals elsewhere providing care in a Kentucky workers' compensation case.

The section's Medical Schedulers coordinate the scheduling of university evaluations at the University of Kentucky and University of Louisville medical schools pursuant to KRS 342.315. Examinations are conducted in all hearing loss and occupational disease claims and in injury claims by order of an Administrative Law Judge. The workload of the agency's medical schedulers was greatly expanded by the B-reader procedure established by the legislature in the 2002 reform act known as HB348. In FY 2003-04, a total of 539 university evaluations were conducted: 338 in hearing loss claims, 130 in injury claims and 71 in pulmonary claims.





## **Key Personnel\***

\* at time of publication

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Sheila Lowther,  
Chief Administrative Law Judge (502) 564-5550, Ext. 4422

Carla Montgomery,  
General Counsel (502) 564-5550, Ext. 4498

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Phil Harmon, Director (502) 564-5550 Ext. 4526  
Joe Peters, Coverage Branch Manager (502) 564-5550, Ext. 4448  
Steve Taluskie, Self-Insurance Branch Manager (502) 564-5550, Ext. 4452  
Tom Powell, Enforcement Branch Manager (502) 564-5550, Ext. 4450

Division of Information & Research  
Deborah Wingate, Director (502) 564-5550, Ext. 4423  
Cheryl Douthitt, Records Branch Manager (502) 564-5550, Ext. 4477  
Pat Phillips, Imaging Branch Manager (502) 564-5550, Ext. 4451

EDI Administrator & Webmaster  
Stephen Mason (502) 564-5550, Ext. 4540

### Division of Workers' Compensation Specialists

John Mann- Chief Specialist (502) 564-5550, Ext. 4532  
Toll Free (800) 554-8601  
Ingrid Bowling - Managed Care (502) 564-5550, Ext. 4449

Division of Claims Processing  
Dianna Rose, Appeals Branch Manager (502) 564-5550, Ext. 4467  
Libby Sea, Claims Branch Manager (502) 564-5550, Ext. 4507

## **OWC Fax Numbers:**

Executive Director's Office (502) 564-5934	Claims (502) 564-3792
Administrative Services (502) 564-8250	EDI/Research (502) 564-5741
Ombuds & WC Specialist (502) 564-9533	Security & Compliance (502) 564-0916
Open Records (502) 564-5732	WC Board Offices (859) 246-2779
Medical Schedulers (502) 564-5741	Vocational Rehabilitation (502) 564-9533